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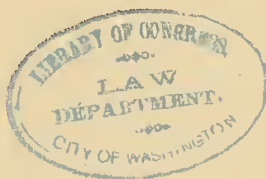
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ARNOLD'S MANUAL

OF



SCHOOL LAWS

OF ILLINOIS.

COURT DECISIONS AND OPINIONS OF STATE
SUPERINTENDENTS.

COMPILED AND EDITED BY

J. A. ARNOLD,

SEVENTEEN YEARS COUNTY SUPERINTENDENT OF
EFFINGHAM COUNTY, ILLINOIS.

W. H. BROWN, CHICAGO, ILL.

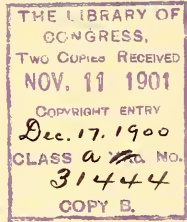
W. H. BROWN, CHICAGO, ILL.

EFFINGHAM, ILLINOIS:

PRESS OF THE EFFINGHAM DEMOCRAT.

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INTRODUCTORY.

THIS publication is designed to assist school officers and teachers. Seventeen years' experience in the office of county superintendent gave us many opportunities to see and feel the need of something of this character for those who have the care and management of public schools and educational affairs. The many questions which were brought to us by officials, teachers, parents, taxpayers and pupils during our official term made it necessary for us to consult all available authorities, that we might render decisions which the law would sustain and public opinion sanction and approve.

The constant aim has been to present such opinions and decisions as will be helpful in reaching clear answers to the many questions that are constantly arising in schools and school districts.

As our country grows older, and the trend of public opinion and sentiment, as regards the schools, and school government constantly change, it becomes almost necessary for young men and women to take a course in school law, that they may know their rights and duties as school officers and teachers.

Students, as well as others, will find much in the book that will, at least, be helpful when reviewing on this very important subject.

ARTICLE I.

STATE SUPERINTENDENT OF INSTRUCTION.

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|---|----------------------|
| § 1. Time of election and term of office. | § 4. Duties defined. |
| § 2. Oath and bond. | § 5. Powers defined. |
| § 3. Salary and office expenses. | § 6. Liabilities. |

ELECTION—SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly.*—That at the election held on Tuesday after the first Monday of November, in the year of our Lord one thousand eight hundred and ninety, and quadrennially thereafter, there shall be elected by the legal voters of this State, a State Superintendent of Public Instruction,* who shall hold his office for four years from the second Monday in January next after his election, and until his successor is duly elected and qualified.

BOND—Sec. 2.—Before entering upon his duties, he shall take and subscribe the oath of office prescribed by the Constitution, and shall also execute a bond, in the penalty of twenty-five thousand dollars (\$25,000), payable to the People of the State of Illinois, with securities to be approved by the Governor, conditioned for the prompt discharge of his duties as Superintendent of Public Instruction, and for the faithful application and disposition, according to law, of all school moneys that may come into his hands by virtue of his office. Said bond and oath shall be deposited with the Secretary of State, and an action may be maintained thereon by the State at any time for a breach of the conditions thereof.

SALARY—Sec. 3. And the State Superintendent shall receive, annually, such sum as may be provided by law, as a salary for the services required under the provisions of this act, or any other law that may be passed, and also all necessary contingent expenses for books, postage and stationery pertaining to his office, to be audited and paid by the State as the salaries and contingent expenses of other officers are paid.

The salary of the Superintendent, at present, as fixed by statute is \$3,500 a year. The expense of the office, such as clerk hire, printing, postage, etc., is provided for by the legislature at each regular session.

DUTIES—Sec. 4. It shall be the duty of the said State Superintendent of Public Instruction—

First—To keep an office at the seat of government of the State.

Second—To file all papers, reports and public documents transmitted to him by the school officers of the several counties, each year separately.

Third—To keep and preserve all other public documents, books and papers relative to schools, coming into his hands as State Superintendent, and to hold the same in readiness to be exhibited to the Governor, or to any committee of either house of the General Assembly.

PERMANENT FILES—All official communications asking for opinions, decisions, supplies, information and instructions are filed in the office and become part of the records of the office, therefore such letters or papers cannot be withdrawn nor returned to the writer. Certified copies of such documents or papers will be furnished on application.

Fourth—To keep a fair record of all matters pertaining to the business of his office.

Fifth—To pay over, without delay, all sums of money which may come into his hands by virtue of his office, to the officer or person entitled to receive the same, in such manner as may be prescribed by law.

This clause does not carry much with it, as the State Superintendent does not receive, and, therefore, is not the custodian of any money belonging to the schools or any school fund. As stated in former clause he receives and pays out the money appropriated by the legislature for the contingent expenses of his office.

Sixth—To counsel and advise in such manner as he may deem most advisable, with experienced and practical school teachers, as to the best manner of conducting common schools.

Seventh—To supervise all the common and public schools in the State.

Eighth—To be the general adviser and assistant of county superintendents of schools in the State.

Ninth—To address circular letters to county superintendents, from time to time, as he shall deem for the interests of schools, giving advice as to the best manner of conducting schools, constructing school houses, furnishing the same, examining and procuring competent teachers.

Tenth—To, on or before the 1st day of November preceding each regular session of the General Assembly, report to the Governor the condition of the schools in the several counties of the State; the whole number of schools which have been taught in each county in each of the preceding years, commencing on the 1st of July; what

part of said number have been taught by males exclusively, and what part by females exclusively; what part of said whole number have been taught by males and females at the same time, and what part by males and females at different periods; the number of scholars in attendance at said schools; the number of persons in each county under twenty-one years of age, and the number of such persons between the ages of twelve and twenty-one years that are unable to read and write; the amount of township and county funds; the amount of the interest of the State or common school fund, and of the interests of the township and county fund annually paid out; the amount raised by an *ad valorem* tax; the whole amount annually expended for schools; the number of school houses, their kind and condition; the number of townships and parts of townships in each county; the number and description of books and apparatus purchased for the use of schools and school libraries under the provisions of this act, the price paid for the same, the total amount purchased, and what quantity and how distributed, the number and condition of the libraries, together with such information and suggestions as he may deem important in relation to the school laws, schools and the means of promoting education throughout the State; which report shall be laid before the General Assembly at each regular session.

The reports due from this office are made up annually, but submitted to the governor biennially, November first, prior to the session of the legislature. At present the school year for statistical purposes ends June 30.

Eleventh—To make such rules and regulations as may be necessary and expedient to carry into efficient and uniform effect the provisions of this act, and of all the laws which now are or may hereafter be in force for establishing and maintaining free schools in this State.

Twelfth—To be the legal adviser of all school officers, and, when requested by any such school officers, to give his opinion in writing upon any question arising under the school laws of this State.

The above clauses confer large powers on the State Superintendent. While he is an executive officer, these sections make him a legislative and judicial officer to an extent that is difficult to define. That he has this power is recognized by the Courts in many instances. 97 Ill., 375; 45 Wis., 150; 60 Wis., 395.

Thirteenth—To hear and determine all controversies arising under the school laws of this State, coming to him by appeal from a county superintendent, upon a written statement of facts certified by the county superintendent.

WISE PROVISION—It is well that the State Superintendent's decisions are final, unless reversed by the courts or the legislature.

All questions of controversy should be referred to the county superintendent, that he may advise the parties interested. He is and should be recognized as the head of the schools of the county, and should be consulted in matters of dispute which may concern the welfare and interest of the schools. This should be the course of all school officers, teachers and patrons, that he may, if possible, save needless trouble and many times injuries to the schools of the locality. In a large majority of cases the advice and suggestions of the county superintendent will prevent litigation and settle neighborhood disputes and contentions which are so very injurious and detrimental to the success and progress of the school if allowed to continue.

The State Superintendent is always ready to advise and give opinions after the county superintendent has been consulted, but not before. Neither will he advise nor give any opinion after a case has been taken into the courts. It would not be proper for him to do so, for his jurisdiction ends where that of the court begins.

COURT OPINIONS—The Courts of several States have spoken quite freely on this subject and make the wisdom of the laws quite clear. The Supreme Court of Wisconsin says: "We are satisfied that this supervision of the State Superintendent over affairs of schools and school districts, commonly very fruitful of litigation, has been most wisely conferred upon him for the public interest, as well as for the peace and prosperity of the schools and districts themselves.—54 Wis., 150.

"In every dispute or contention among those intrusted with the administration of the system, or between the functionaries and the patrons or the pupils of the schools, offered an occasion for a resort to the courts for settlement, the working of the system would not only be greatly embarrassed and obstructed, but such contentions before the courts would necessarily be attended with great cost and delay, and likely generate such intense intestine heats and divisions as would in great degree counteract the benevolent purposes of the law."—51 Md., 401.

"A quarrel or a law suit in a school district is generally not long confined to the original parties. It spreads among all the families, it goes into the selection of teachers, and injures the discipline of the school; and if the difficulty once takes the shape of a law suit, and the parties have expended money, as well as temper upon it, it is still more difficult to settle. Hence the provision for a cheap and speedy decision avoiding the delay and the expense of a law suit."—10 R. I., 615.

NO RULE GOVERNING—There is no rule by which the State Superintendent or a County Superintendent is governed in hearing an appeal. The officer hearing the case has full discretion in all questions relating thereto since the law makes no rule to follow or govern. The officer or officers whose duty it is to pass upon such matters should give all parties who are interested a full and fair hearing that when the matter is decided and a decision rendered, the people of the community in general will endorse and approve the same.

Fourteenth—To receive and file all proper reports made to him

from time to time by the several county superintendents of this State as required by article II of this act.

Fifteenth—To grant State certificates to such teachers as may be found worthy to receive them as provided for in section 2 of article VII of this act.

Sixteenth—To be *ex officio* a member of the board of trustees of the University of Illinois and of the Southern Normal University.

Seventeenth—To be *ex officio* a member of the Board of Education of the State of Illinois and of the secretary thereof.

Eighteenth—To report to the General Assembly of Illinois, at its regular session, the condition and expenditures of the Normal University, and such other information as may be directed by the Board of Education of the State of Illinois or by the General Assembly of this State.

Nineteenth—To visit such of the charitable institutions of this State as are educational in their character, and to examine their facilities for instruction, and to prescribe forms for such reports as he may desire from the superintendents of such charitable institutions.

POWERS—Sec. 5. The State Superintendent of Public Instruction shall be clothed with the following powers:

First—To direct and cause the county superintendent of any county, directors of boards of trustees or township treasurer of any township, or other school officer, to withhold from any officer, township, district or teacher, any part of the common school, or township, or other school fund, until such officer, township treasurer or teacher shall have made all schedules, reports and returns required of him by this act, and until such officers shall have executed and filed all official bonds and accounted for all common school or township or other school funds which have heretofore come into his hands, as required of him by this act.

Second—To require the several county superintendents of this State to furnish him with such information relating to their several offices as he may desire to embody in his report to the General Assembly of this State.

Third—To require the board of trustees of each township in this State to make, at any time he may desire, a report similar to the report required to be made by such trustees on or before the fifteenth day of July preceding each regular session of the General Assembly of this State, as provided for in section 28 of article III of this act.

Fourth—Upon the recommendation of the county superintendent, or for good and sufficient reasons, to remit the forfeiture of the school fund by any township which may have failed to make the reports required by law.

Fifth—To determine and designate the particular statistics relating to schools which the inferior officers shall report to the county superintendent for the use of his office.

Sixth—To authorize the several county superintendents to procure such assistance as may be necessary to conduct county teachers' institutes for not less than five days in each year.

Seventh—To require annual reports from the authorities of incorporated towns, townships, cities or districts holding schools by authority of special charters to the same extent as regular school officers are or may be required to make such reports.

Eighth—To require the president, principal or other proper officer of every organized university, college, seminary, academy or other literary institution, whether incorporated or unincorporated, or hereafter to be incorporated in this State, to make out such report as he may require in order that he may lay before the General Assembly a fair and full exhibit of the affairs and conditions of such institutions and of the educational resources of the State.

Ninth—To require the Auditor of Public Accounts to withhold from the county superintendent of any county the amount due any such county for its share of the interest on State school fund, or said county superintendent for his per diem compensation, until the report provided for in section 17 of article II of this act shall have been furnished as therein required.

NOT INTERESTED IN SALES—Sec. 6. The said State Superintendent of Public Instruction shall not be interested in the sale, proceeds or profits of any book, apparatus or furniture used, or to be used, in any school in this State, and for offending against the provisions of this section he shall be liable to indictment, and upon conviction shall be fined in a sum not less than twenty-five nor more than five hundred dollars, and may be imprisoned in the county jail not less than one month nor more than twelve months, at the discretion of the court.

ARTICLE II.

COUNTY SUPERINTENDENTS.

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| § 1. Time of election and term of office. | § 14. Powers defined. |
| § 2. Oath and bond. | § 15. Record of land sales. |
| § 3. Form of bond. | § 16. Report to county board. |
| § 4. Obligors bound jointly and severally. | § 17. Report to State Superintendent. |
| § 5. Supervisors may require a new bond. | § 18. Collecting statistics, and suit against trustees as individuals. |
| § 6. Office and supplies. | § 19. Approval of township treasurer's bond, and delivery of written statement to the township treasurer. |
| § 7. Liable to removal. (Repeal.) | § 20. Apportionment of funds to townships. |
| § 8. Vacancies. | § 21. Loaning of county fund. |
| § 9. Time limited. | § 22. Appeal to the State Superintendent. |
| § 10. Assistants. | § 23. Delivery of money, books, papers, etc., to successor in office. |
| § 11. Commissions and per diem. | |
| § 12. Itemized bills and warrants from Auditor. | |
| § 13. Duties defined. | |

EDUCATION—SECTION 1. On Tuesday next after the first Monday in November, A. D., 1890, and quadrennially thereafter, there shall be elected by the qualified voters of every county in the State, a county superintendent of schools who shall perform the duties required by law, and shall enter upon the discharge of his duties on the first Monday of December after his election.

BOND—Sec. 2. He shall, before entering upon his duties, take an oath prescribed by the Constitution, and execute a bond payable to the People of the State of Illinois, with two or more responsible freeholders as security, to be approved by the county board or by the judge and clerk of the county court, in a penalty of not less than twelve thousand dollars (\$12,000), to be increased at the discretion of the said county board, conditioned that he will faithfully perform all the duties of his office according to the laws which are or may be in force during his term of office.

REMARK—The bond must be signed and acknowledged before some person authorized to take acknowledgements.

FORM—Sec. 3. The bond required in the forgoing section shall be in the following form, viz.:

STATE OF ILLINOIS,)
County,) ss.

Know all men by these presents, that we, A B, C D and E F, are held and firmly bound, jointly and severally, unto the People of the State of Illinois, in the penal sum of.....dollars, to the payment of which we bind ourselves, our heirs, executors and administrators firmly by these presents.

In witness whereof we have hereunto set our hands and seals thisday of.....A. D. 190.....

The condition of the above obligation is such, that if the above

bounden A B, County Superintendent of the county aforesaid, shall faithfully discharge all the duties of said office, according to the laws which now are or may hereafter be in force, and shall deliver over to his successor in office all moneys, books, papers and property in his hands, as such County Superintendent, then this obligation to be void, otherwise to remain in full force and virtue.

A B [Seal.]

C D [Seal.]

E F [Seal.]

And which bond shall be filed in the office of the County Clerk.

LIABILITY—Sec. 4. The obligors in such bond shall be bound jointly and severally, and upon it an action or actions may be maintained by the board of trustees of the proper township, or any other corporate body interested, for the benefit of any township or fund injured by any breach of the conditions thereof.

The county superintendent's liability for school funds coming into his hands is the same as that of a township treasurer. His liability for public funds does not cease until he has paid them over to the proper persons. There is no law or mode by which such officer can be relieved for the loss of public funds. County Superintendents and school treasurers are equally liable for trust funds in their hands even though the loss occurs by accident, felony or otherwise. A county superintendent's liability does not cease until the instant he pays the money over to the proper person or officers properly qualified to receive it.—30 Ill. 99.

APPROVAL OF BOND—Sec. 5. If a majority of the county board shall be satisfied, at any time, that the bond of said County Superintendent is insufficient, it shall be the duty of such superintendent, upon notice being given to him by the clerk of such board, to execute a new bond, conditioned and approved as the first bond: *Provided*, that the execution of such new bond shall not affect the old bond or the liability of the securities thereon.

OFFICE—Sec. 6. It shall be the duty of the county board of the county to provide the said county superintendent with a suitable office, with necessary furniture and office supplies, as is done in the case of other county officers.

NOT TO USE FUNDS—Under a former law, if the county board failed or refused to furnish the necessary supplies and furniture for the county superintendent's office, the officer was authorized to procure and pay for such supplies from the distributable fund. As the law stands it is illegal to use the funds in this way. The county board nor the county superintendent is authorized to use school funds for such purposes. A county superintendent is not warranted by law in buying goods and supplies without permission from the county board, therefore it is well for him to consult those whose duty it is to provide the office with the necessary supplies, and obtain permission to purchase such as may be needed in the business of the office. This suggestion applies to such bills as printing, blanks, rec-

ords, etc., the cost of which may amount to several dollars. This rule if followed, will be much more satisfactory and will generally result in more liberal treatment of the office than otherwise would be accorded it.

A county superintendent is liable for goods purchased without authority from the board to make such purchases, and if the county board refuses to pay the bills, the superintendent will have to pay them himself.

REPEALED—Sec. 7. Repealed by act approved June 15, 1893.

APPOINTMENT TO FILL VACANCY—Sec. 8. When the office of county superintendent shall become vacant by the death, resignation, the removal of the incumbent by the county board or otherwise, the county board shall fill the vacancy by appointment and the person so appointed shall hold his office until the next election of county officers, at which election the county board shall order the election of a successor: *Provided* that if a vacancy shall not be filled by the county board within thirty days of the time the vacancy occurs, by reason of a tie vote of said board upon the vote to fill vacancy, or from any other cause, then it shall be the duty of the clerk of the county board to summons the county judge of the county in which the vacancy exists to meet with the county board at a time and place to be designated by the clerk, of which meeting the members of the county board shall have notice; and said county board and county judge, when so notified, shall meet at the time and place designated, at which meeting the county judge shall preside, and in case of a tie vote he shall give the casting vote. Upon the appointment of a person to fill the vacancy of County Superintendent of Schools, the clerk of the county board shall notify the person so selected and appointed by the board of his selection and appointment, and he shall hold his office until the next election of county officers, at which election the county board shall order the election of a successor.—[As amended April 22, 1899. In force July 1, 1899.]

CANNOT WITHDRAW RESIGNATION—If an officer tenders his resignation in writing to the person or persons who are authorized to receive the same and file it, such resignation is thereby accepted though there may be no formal acceptance, and such resignation cannot legally be withdrawn after the same has been filed.

TIME—Sec. 9. In counties having no more than one hundred (100) schools, the county board may limit the time of the superintendent: *Provided*, that in counties not having more than fifty (50) schools, the limit of time shall not be less than one hundred and fifty (150) days a year; in counties having from fifty-one (51) to seventy-five (75) schools, not less than two hundred (200) days a year; and in counties having from seventy-six (76) to one hundred (100) schools, not less than two hundred and fifty (250) days a year.

In the counties with less than 101 schools, county boards may limit the county superintendent to the extent as stated in this section, though if the best interest of the schools is consulted they should have all the county superintendent's time and attention if the officer is a progressive and conscientious school man.

ASSISTANT—Sec. 10. The county superintendent may, with the approval of the county board, employ such assistants as he needs for the full discharge of his duties. Such assistants shall be persons of good attainments, versed in the principles and methods of education, familiar with public school work, and competent to visit schools. Such assistants shall receive such compensation as may be fixed by the county board.

COMPENSATION—Sec. 11. County superintendents shall receive in full, for all services rendered by them commissions as follows: Three per cent. commission upon the amount of sales of school lands, or sales of land upon mortgage, or the sales of real estate taken for debt, including all services therewith. Two per cent. commission upon all sums distributed, paid or loaned out by them for the support of schools. For all other duties required by law to be performed by them, four dollars (\$4) a day for such number of days as shall be spent in the actual performance of their duties, not exceeding the number fixed by the county boards in counties in which the boards are given power to fix the number of days by section 9 of this article of this act, and one dollar (\$1) a day for expenses for the number of days actually spent in school visitation.

The commission provided for in this section is designed to pay the county superintendent for selling land, distributing and paying out funds, and for the great responsibility therewith which he is required to assume under the law.

COMMISSION COMPUTED—In computing commission on the fund distributed to the townships, the county superintendent is not entitled to commission on the gross amount, but on the amount actually paid over. For example: If the gross amount for distribution, after paying for notices of examinations, is \$8,000, the commission would be \$156.63, and not as some hold, \$160.00. The law intends that the commission be paid on funds *distributed* to the township.

In the sale of school land the county superintendent should take the notes and mortgages in the corporate name of the trustees the same as if taken by a township treasurer. If such notes and mortgages should be taken in the name of the county superintendent they would not be invalidated.

BILLS—Sec. 12. The county superintendent shall present, under oath or affirmation, their itemized bills for their per diem compensation and for the expenses allowed by this article of this act, when visiting schools, together with a report of all their acts as such county superintendent, or assistant, including a list of all the schools

visited, with the dates of visitation, to the county board, at the annual meeting of such county board in September, and as near quarterly thereafter as such board may have regular or special meetings, and after the bills have been audited by the county board, the county clerk shall certify to such auditing upon the bills, and transmit them to the Auditor of Public Accounts, who shall, upon receipt of them, remit in payment thereof to each superintendent his warrant upon the State Treasurer for the amount certified to be due him. The said Auditor, in making his warrant to any county for the amount due it from the State school fund, shall deduct from it the several amounts for which warrants have been issued to the county superintendent of said county since the next preceding apportionment of the State school fund.

BLANKS—The auditor of the public accounts furnishes blanks which are in accordance with the law for the bills of the county superintendent, and when properly made out and accompanied by an itemized statement showing the official work of the county superintendent must be presented to the county board, that the board may audit the same and authorize the county clerk to certify the account to the state auditor for payment.

DUTIES—Sec. 13. It shall be the duty of each county superintendent of schools in this State—

First—To sell township fund lands, issue certificates of purchase, report to the county board and State Auditor, and perform all other duties pertaining thereto, as required by article XIII of this act.

Second—To register applicants for admission to the State Normal Universities and to the University of Illinois, and to assist in the examination of the same as directed by the State Board of Education or other proper authorities.

Third—To visit each school in the county at least once a year, and in the performance of this duty, he shall spend at least half the time given to his office, and more, if practicable, in visiting ungraded schools.

In this section it is made the duty of the county superintendent to supervise and visit all the schools, and at least one-half of his time spent in official work must be spent in the ungraded schools, or those schools with but one teacher.

The county superintendent is the judge and should he deem it best to do this visitation and supervision in the first half or three quarters of the year the county board could not legally question his right, or object to his bill for per diem, because in some particular part of the year his office work exceeded the time spent in visiting schools. The law is that he shall spend his time in such supervision as he may deem best for the success of the schools.

Fourth—To note, when visiting schools, the method of instruc-

tion, the branches taught, the text books used, and the discipline, government and general condition of the schools.

Fifth—To give to teachers and school officers such directions in the science, art and methods of teaching and courses of study as he may deem expedient and necessary.

Sixth—To act as the official adviser and constant assistant of the school officers and teachers of his county; and, in the performance of this duty, he shall faithfully carry out the advice and instruction of the State Superintendent of Public Instruction.

Seventh—To conduct as provided for in section 10 of article VII of this act, a teachers' institute, and to aid and encourage the formation of other teachers' meetings, and to assist in their management.

Eighth—To labor in every practicable way to elevate the standard of teaching, and improve the condition of the common schools of his county.

It is made the duty of the county superintendent to visit schools, study the methods of instruction, government and discipline, to give instructions in the art and methods of teaching, to promote and encourage the formation of teachers' institutes, and to give advice to teachers and school officials, using all practicable means to elevate and improve the condition of the public schools in his county.

The county superintendent can do much in building up the schools, and in bringing the people to see the needs of thorough teaching and the employment of the best and most successful teachers.

FALSE IDEAS—The false notion prevails that anyone can do the work required of a county superintendent. The work should be done with a definite plan and aim in view, and results carefully recorded.

The county superintendent should assist and direct the officers in keeping their accounts, and he should aid them in the purchase of supplies for their schools, advising them as to what is best and most needed in the school for successful work. He should induce and encourage the parents to attend teachers' meetings and to visit their schools, he should labor to improve the teachers in his county educationally, developing in them a stronger professional feeling, and deeper and more enthusiastic interest in the work of the schools and that of the teachers' meetings and institutes. He should arouse in them a desire to grow and thereby cause the schools to grow.

Ninth—To examine, at least once each year, all books, accounts and vouchers of every township treasurer in his county, and if he finds any irregularities in them, he shall at once report the same in writing to the board of trustees, whose duty it shall be to take, immediately, such actions as the case demands.

Tenth—To examine all notes, bonds, mortgages, and other evidences of indebtedness which the township treasurer holds officially, and if he finds that the papers are not in proper form or that the

securities are not sufficient, he shall so state to the board of trustees in writing.

MUST INSPECT—Since 1879 the law requires that the county superintendent inspect each treasurer's books, vouchers, papers, notes and district accounts, and note that all charges are fully and properly entered. He must make close examination, and at no time accept anything for granted. He should, to satisfy the law, verify the cash, that he may be fully satisfied that all funds are as the law directs.

Eleventh—To give notice of the election of trustees in cases such as those provided for in section 15 of article III of this act.

Twelfth—To file and safely keep the poll books and returns of any election required to be returned to the county superintendent by any provision of this act.

Thirteenth—To investigate and determine all matters pertaining to the change in the boundaries of school districts, which may come to him by appeal from the decision of the school trustees, and to notify the township treasurer, from whom the papers relating to the matter were received, of his decision of the matter.

Fourteenth—To give notice of the election of school directors in cases such as are provided for in section 9 of article V of this act.

Fifteenth—To hold meetings, at least quarterly, for the examination of teachers, as provided for in section 7 of article VII of this act.

Sixteenth—To grant certificates of qualification to such persons as may be qualified to receive them, as provided for in section 3 of article VII of this act; and to keep a record of all teachers to whom such certificates have been granted, as provided for by section 4 of article VII of this act; and to keep a record of all teachers employed in teaching in his county.

RECORD OF TEACHERS—The county superintendent should keep a full and complete record of all teachers employed in his county, noting the district, time taught, salary paid, etc. Such information is helpful in many ways, and should be collected and carefully recorded. It will be well to add to such record a list of books used in the schools.

Seventeenth—To keep a just and true account of all moneys received and all moneys paid out on account of the "institute fund," and make report thereof to the county board, as provided for in section 9 of article VII of this act.

Eighteenth—To present to the county board of the county, at the first regular meeting thereof, annually, the report required by section 3 of article XI of this act.

Nineteenth—To notify presidents of boards of trustees and clerks of school districts, on or before September 30, annually, of the

amount of money paid by him to the township treasurer, and the date of such payments.

NOTICE OF PAYMENT TO TREASURER.

To the President of the Trustees of Township....Range....—

I have, this.....day of.....I...., paid to your treasurer,.....Dollars, being the amount apportioned to your township by me.

.....Co. Supt.

Twentieth—To receive and file, on or before the 15th day of July preceding each regular session of the General Assembly, and at such other time as may be required by the State or county superintendent, a statement from the board of trustees of each township, giving such statistics and information as may be called for.

REMARK—County superintendents can, and should, under this clause, collect much information concerning the schools and the financial affairs of the townships that will be of interest and value to all who are interested in educational progress. Comparisons can be made and remedies applied where weak places are found. Much of this information can be collected and placed before the people at little cost, and in a way that will create an increasing and growing sentiment in behalf of the common schools in the country. This clause should not be treated as a dead letter by all, except the State Superintendent, and the dry report to him.

POWER—Sec. 14. The said county superintendent shall have power—

First—To require the board of trustees of each township in his county to make, at any time he may desire, the report provided for in section 28 of article III of this act.

Second—To recommend to the State Superintendent the remission of the penalty provided for a failure by the trustees of schools to make the reports provided for by law.

Third—To renew teachers' certificates at their expiration by his indorsement thereon.

Fourth—To revoke the certificate of any teacher for immorality, incompetency, or other just cause.

Fifth—To direct in what manner township treasurers shall keep their books and accounts.

Sixth—To bring suit against the county collector for a failure to pay State Auditor's warrant as provided for in section 5 of article XII of this act.

Seventh—To remove any school director from office for a wilful failure to perform the duties of his office.

Eighth—To lease and sell real estate in cases provided for in section 26 of article XIII of this act, in the manner therein specified.

NOT TO BE TREASURER—The county superintendent can not legally

hold the office of township treasurer; nor can he serve as city superintendent.

REMOVAL OF DIRECTOR—A school director failing or refusing to perform the duties of his office may be removed by the county superintendent, and a new election ordered to fill the vacancy. Where a director refuses to sign a teacher's contract, or to accept and place it on file, or to issue an order for a teacher's pay, or to sign such order, or refuses to furnish the necessary school supplies, will be sufficient grounds for removal. Before the county superintendent takes steps to remove a negligent or stubborn director, he should notify such officer, so that he may have an opportunity to prevent removal by attention to his duties. If the director so notified does not correct his short comings, the county superintendent should give such officer written notice of his removal from office and at the same time file notice of such removal with the township treasurer. Then it will be the duty of the remaining director, or directors to order an election to fill the vacancy caused by such removal. This, like the revocation of a teacher's certificate, is quite harsh, and the county superintendent should not exercise his power till the good of the school calls for the action.—46 Mich., 316.

LOAN FUNDS—Sec. 15. The said county superintendent shall provide three well bound books, which shall be paid for from the county treasury. These books shall be known and designated by the letters A, B, C for the following purposes: In book "A" he shall record at length all petitions presented to him for the sale of common school lands, and the plats and certificates of valuation affidavits in relation to the same. In book "B" he shall keep an account of all sales of common school lands, which account shall contain the date of the sale, name of purchaser, description of land sold and the sum sold for. In book "C" he shall keep a regular account of all moneys received for lands sold or otherwise, and loaned or paid out; the persons from whom received, and on what account, and showing whether it is principal or interest; the person to whom loaned, the time for which the loan was made the rate of interest, the names of securities, when personal security is taken, or if real estate is taken as security, a description of the real estate; and if paid out, to whom, when, and on what account, and the amount paid out; the list of sales and the account of each township fund to be kept separate.

This section does not apply to many of the counties at present as the land, except in a few instances, has all been sold and the business settled up for many years past and the funds duly turned over to the townships. We suggest that these old records and papers should be carefully preserved as no doubt in many instances they will prove highly valuable from time to time.

REPORT—Sec. 16. The county superintendent shall report, in writing, to the county board, at their regular meeting in September

of each year, giving first, the balance on hand at the time of the last report and a statement in detail of all receipts since that date, and the sources from which they were derived; second, the amount paid for expenses; third, the amount of his commissions; fourth, the amount distributed to each of the township treasurers in his county; fifth, any balance on hand. He shall also present for inspection at the same time his books and vouchers for all expenditures, and all notes or other evidences of indebtedness which he holds officially, with the securities of the same; and he shall give in writing a statement of the condition of the county fund, of the institute fund, and of any township fund of which he may have the custody.

There are fifty-two counties having a county fund to which this section applies, and the county superintendent must report as directed. In the other counties the "distributable fund" and receipts from fines is all there is to report in pursuance to this section.

DOES NOT HANDLE FUND—At this time county superintendents handle no township funds. Hence they have no report on this topic.

INSTITUTE FUND—The report of the Institute Fund is a separate and distinct report and should not in any way be connected with other reports. In those counties having a county fund a report showing the condition of such fund, together with the notes, vouchers, and securities should be separate and apart from the report showing the receipts and disbursements of the "distributable fund."

REPORT STATISTICS—Sec. 17. On or before the 15th day of August before each regular session of the General Assembly of this State, or annually, if so required by the State Superintendent of Public Instruction, the county superintendent shall communicate to said State Superintendent all such information and statistics upon the subject of schools in his said county as the said State Superintendent is bound to embody in his report to the Governor, and such other information as the State Superintendent may require.

IMPORTANT DUTY—This section imposes an important duty upon the county superintendent and to enable him to perform this duty well, township and district officers should use great care to make their reports full and accurate, and complete. We are well aware that many treat this matter of reports as useless and of little value and only make such reports because the law forces them to do so. We wish to say in the strongest terms that reports and statistics, if properly and accurately made, do much to advance our educational interest. Hence anyone who accepts an office under the school law should strive to furnish true and correct statements and statistics. No business can be expected to go well and prove satisfactory without such exhibits and comparisons. For a failure

to make the report required by this section the county superintendent is liable to a fine, and should his county suffer any loss for such failure he would be liable therefor on his bond, and the county board would be sustained in refusing to audit his bill for services.—Clause 9, Sec. 5, Art. I.; Sec. 10, Art. XIV, School Law.

NEGLECT—Sec. 18. In all cases where the township board of trustees of any township shall fail to prepare and forward or cause to be prepared and forwarded to the county superintendent, the information and statistics required of them in this act, it shall be the duty of the said county superintendent to employ a competent person to take the enumeration and furnish such statistical statement, as far as practical, to the superintendent; and such person so employed shall have free access to the books and papers of said township to enable him to make such statement; and the township treasurer, or other officer or person in whose custody such books and papers may be, shall permit such person to examine such books and papers at such times and places as such person may desire for the purposes aforesaid; and the said county superintendent shall allow, and pay to the person so employed by him, for the services, such amount as he may judge reasonable out of any money which is or may come into said superintendent's hands, apportioned as the share of or belonging to such township; and the said county superintendent shall proceed to recover and collect the amount so allowed or paid for such services, in a civil action before any justice of the peace in the county, or before any court having jurisdiction, in the name of the People of the State of Illinois, of and against the trustees of schools of said township, in their individual capacity; and in such suit or suits the said county superintendent and township treasurer shall be competent witnesses; and the money so recovered, when collected, shall be paid over to the county superintendent for the benefit of said township, to replace the money taken as aforesaid.

FAILURE OF TRUSTEES—This section is quite clear as to what course the county superintendent shall pursue in case of failure on the part of a township board of trustees to furnish reports required, and in proper form. In such cases it is the duty of the superintendent to send some competent person to make such report and pay for such labor from the "distributable fund" belonging to such township, and then bring suit against such delinquent officers to recover the amount expended for such report.

APPROVAL OF BOND.—Sec. 19. Whenever the bond of any township treasurer approved by the board of trustees of schools, as required by law, shall be delivered to the county superintendent, he shall carefully examine the same, and if the instrument is found in all respects to be according to law, and the securities good and

sufficient, he shall endorse his approval thereon, have it recorded in the circuit clerk's office, and file the same with the papers of his office; but if said bond is in any way defective, or if the penalty is insufficient, he shall return it for correction. When the bond shall have been duly received and filed, the superintendent shall, on demand, deliver to said township treasurer a written statement certifying that his bond has been approved and filed, and that said township treasurer is entitled to the care and custody, on demand, of all moneys, bonds, mortgages, notes and securities, and all books, papers and property of every description belonging to said township.

EXAMINATION OF BONDS—The intent of this section of the law is to make the township funds more secure by requiring the county superintendent to examine most carefully the bonds of township treasurers. In years past much loss of this fund has been due to worthless and defective bonds. Very true that it is first the duty of township trustees to approve such bonds and in case of loss through their negligence they too may be made to suffer, but as they do not give bond, the legislature has sought to throw more security around this fund by requiring county superintendents to examine all bonds and if found deficient or defective to return the same for amendment and correction. County superintendents must refuse to approve and file any bond till all defects are cured. He must likewise refuse to pay out any money to any such treasurer until the bond is in conformity with the law, and the security satisfactory. The county superintendent may call for and demand a new bond if he deems the old one insufficient. The bonds of township treasurers must be recorded in the office of the recorder of deeds.—130 Ill., 412.

APPORTIONMENT—Sec. 20. Upon the receipt of the amount due upon the Auditor's warrant, the county superintendent shall apportion said amount, also the interest on the county fund and the fines and forfeitures, to the several townships and parts of townships in his county, in which townships or parts of townships schools have been kept in accordance with the provisions of this act, and with the instructions of the State and county superintendents, according to the number of children under twenty-one years of age, returned to him, and shall pay over the distributive share belonging to each township and fractional township, to the respective township treasurers, or other authorized persons, annually; *Provided*, that no part of the State, county or other school fund shall be paid to any township treasurer or other person authorized by said treasurer unless said township treasurer has filed his bond, as required by section 1 of article IV of this act, nor in case said treasurer is re-appointed by the trustees, unless he shall have renewed his bond and filed the same as aforesaid.

ENTITLED TO SHARE—A township to share in the distribution of

the funds under the section, must have maintained within its territory at least one school as provided by law. "According to law" means that the school was in session at least six months and that the teacher held a certificate from the county or State superintendent, or as otherwise provided by law, covering the entire term, and that the school was for purpose of teaching the several branches named in the statute. The schedules and other evidences will show such facts if they have been properly made and filed. It frequently is the case that a township is divided by a county line. In such townships the school treasurer receives money from the county superintendent of each county. It is the duty of the trustees in such cases to ignore the county line, and distribute the funds to the several districts entitled to share in the distribution the same as if all the money was received from one county superintendent, and there were no division by county line.

FAILURE TO REPORT—When a board of township trustees fail or refuse to make the reports, required by law, to the county superintendent, such township shall not be entitled to share in the funds distributed by the county superintendent, provided, however, that the State superintendent may set the forfeiture aside. If a township is divided by a county line, the township treasurer is entitled to receive funds from both county superintendents.—47 Ill., 321.

DISTRIBUTE ON CENSUS—The law provides that the county superintendent shall distribute the funds according to the census, counting all persons under twenty-one years of age. Such returns should not be received if known to be fraudulent and false, and in such cases must be rejected and the money withheld until correct returns are furnished. The law may bear the county superintendent out in adopting the latest correct census returns on file as the basis for the distribution, though such action encourages slackness on the part of those whose duty it is to furnish annually such reports.

The law makes it the duty of the township treasurer to execute a good and satisfactory bond, and to this end the county superintendent must look before he pays to any treasurer any of the public funds. At the time when the county superintendent makes a distribution of the funds, should a township have no treasurer, nor even a board of trustees it is his duty to distribute to that township its share of the public money, and hold the same till trustees are elected and a treasurer is appointed and duly qualified. The funds distributed by a county superintendent is payable at his office, therefore it is the duty of the township treasurers to call on him for the funds belonging to their townships.

RECEIPT TO COUNTY SUPERINTENDENTS.

Received of County Superintendent of
County, the sum of dollars, being the amount apportioned for the year.....to township.....Range.....by the
County Superintendent for said county, this....day of.....1....
.....Township Treasurer.

LOAN FUNDS—Sec. 21. The county superintendent may loan any money, not interest, belonging to the county fund, or to any

township fund, before the same is called for, according to law, by the township treasurer, at the same rate of interest, upon the same security and for the same length of time as is provided by this act in relation to the township treasurers, and apportion the interest as provided in the preceding section ; and notes and mortgages taken in the name of the "county superintendent" of the proper county are hereby declared to be as valid as if taken in the name of "trustees of schools" of the proper township, and suits may be brought in the name of "trustees of schools" of proper township, and suits may be brought in the name of "county superintendents," on all notes and mortgages heretofore or hereafter made payable to the county superintendents.

LOAN TO PURCHASER—At a sale of any of the land of the 16th section, the county superintendent may loan the money to the purchaser or any other person on note and mortgage. Should such papers be taken in the name of the county superintendent they will be just as valid as if taken in the name of the trustees of schools of the township.

SCHOOL FUND NOTE.

\$..... I.....
.....after date, for value received, we jointly and severally promise to pay to the trustees of schools of township No.....Range No.....in.....County, the sum of.....dollars and interest thereon, at the rate of...per cent. per annum, from date, payable annually. We agree to give additional security which said trustees may at any time require, and no extension of the time of payment, with or without our knowledge, by the receipt of interest or otherwise, shall release us or either of us from the obligation to pay this note.

CONTROVERSIES—Sec. 22. In all controversies arising under the school law, the opinion and advice of the county superintendent shall first be sought, whence appeal may be taken to the State Superintendent of Public Instruction upon a written statement of facts certified by the county superintendent.

In such matters as controversies and disputes the parties should follow the directions of this section, which will save much time, and bring about a speedy adjustment of affairs, and perhaps save much trouble and vexation.

COUNTY SUPERINTENDENT'S CERTIFICATE IN APPEAL.

..... I.....
To.....State Superintendent:
Herewith find statement and papers in the controversy betweenand.....with my decision, from which action an appeal has been taken to you.
I hereby certify that the statement is correct.

.....Co. Supt. of
.....County, Illinois.

SUCCESSOR—Sec. 23. The county superintendent, upon his removal or resignation, or at the expiration of his term of office (or in case of his death, his representatives) shall deliver over to his successor in office, on demand, all moneys, books, papers and personal property belonging to the office or subject to the control or disposition of the county superintendent.

An earnest and conscientious officer will keep all records and papers in order and properly filed that any desired information in them can be obtained at all times readily. That it is the duty of an outgoing officer to deliver all books, papers, etc., etc., to his successor is too clear to need any comment.

ARTICLE III.

TOWNSHIP—TRUSTEES OF SCHOOLS.

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| § 1. School township. | § 20. Examination of township treasurer's books, etc., by trustees. |
| § 2. Fractional townships consolidated. | § 31. Gifts, grants, etc.; title of school houses. |
| § 3. School business of the township. | § 22. Sale of school house; form of notice of sale. |
| § 4. Trustees a body politic. | § 33. Conveyance of real estate; how made. |
| § 5. Annual election. | § 34. Township treasurer custodian of bonds; power to remove or sue that official. |
| § 6. Term of office. | § 35. Power to purchase real estate in satisfaction of judgments. |
| § 7. Age, residence and eligibility. | § 36. Power to make settlements. |
| § 8. Notice of election, and form of election notice. | § 37. Power to lease land, or sell at public auction. |
| § 9. Election in certain cases to be held on any Saturday, and notice to be given by county clerk. | § 38. Township high school, and form of notice for high school election. |
| § 10. Trustees draw lots for their terms of office in certain cases. | § 39. Ballots for high school election |
| § 11. Judges of election. | § 40. Election for members of township board of education; term of office; vacancies; organization of the board, and establishment of the school. |
| § 12. Qualification of voters. | § 41. Powers of township board of education. |
| § 13. Conduct of elections; contesting elections; polls may be closed at 4 p. m. | § 42. Parts of two or more townships may join in establishing a high school. |
| § 14. Judges may postpone election. | § 43. Discontinuance of township high school. |
| § 15. County superintendent to order election. | § 44. Canvass of ballots, and disposition of assets. |
| § 16. Vacancies. | § 45. Interests in school books; penalties |
| § 17. Tie at an election. | § 46. Districts in newly organized townships. |
| § 18. More than one polling place; canvassing the returns and making out a certificate. | § 47. Changes in district boundaries. |
| § 19. Election when township is same as town. | § 48. Who may petition. |
| § 20. Poll book; failure to deliver the same. | § 49. Districts having less than 100,000 inhabitants, even under special charter, may vote to change boundaries |
| § 21. County clerks to furnish list of trustees elected at town meetings. | § 50. Filing of the petition; notice to the districts and form of notice. |
| § 22. Organization; appointment of president and treasurer. | § 51. Territory lying in two or more townships. |
| § 23. Term of office of president and treasurer; their removal. | § 52. Adjournment of the board. |
| § 24. Record of proceedings. | § 53. Acting upon the petition. |
| § 25. Meetings of trustees and quorum. | § 54. Appeal and form of notice. |
| § 26. Distribution to districts; basis of the same. | |
| § 27. Funds placed to the credit of districts. | |
| § 28. Report to county superintendent; items; forfeiture for failure to report. | |
| § 29. Separate enumeration; statistics not divisible. | |

§ 55. Clerks transmit papers to the county superintendent.	§ 63. Distribution of funds.
§ 56. Appeal in case of territory divided by county lines.	§ 64. Appraisement of property.
§ 57. Filing map and list of taxpayers.	§ 65. Liability of trustees in reference to distribution of funds.
§ 58. District with a bonded debt.	§ 66. Liability of clerk.
§ 59. Election in new districts, and form of notice.	§ 67. District failing to have school for two years.
§ 60. Conduct of election.	§ 68. Dissolution of union district.
§ 61. Organization of board.	§ 69. Successors to trustees of school lands.
§ 62. Election in districts organized by action of county superintendent	

SCHOOL TOWNSHIP—SECTION 1. Each congressional township is hereby established a township for school purposes.

CONFUSION—In counties under township organization much confusion seems to arise, especially when the lines of the civil township do not coincide with the congressional township. School townships can not be altered by boards of trustees or by the voters therein.

If part of the territory of a township is attached to territory in another township to form a school district, or if part of the territory of an adjoining township composes part of a school district in a township, the boundary of the school township is not changed. Voters living outside the school township, though living in territory belonging to a school district of the township are not entitled to vote for trustees for the township in which they do not reside. When the lines of a congressional or school township coincide with the civil township, their school trustees are to be elected at the annual town election, notice of the same being given by the town clerk. At such elections there must be two ballot boxes, one in which to deposit votes cast by female voters for trustee or trustees.

It appears by the decision of the courts that the legislature may attach part of a township to another township and provide for a division of the township fund, but should such act fail to provide for such division of funds, then no division can be legally made by the local officers.—86 Ill., 613.

FRACTIONAL—Sec. 2. Whenever any fractional township contains less than two hundred (200) persons under twenty-one years of age, the trustees thereof, upon petition of a majority of the adult inhabitants of such fractional township, may, by written agreement entered into with the board of trustees of any adjacent township, consolidate the territory, school funds and other property of such fractional township with such adjacent township, and thereafter shall cease to exercise the functions of school trustees for such fractional township; and such territory, school funds and other property, aforesaid, shall thereafter be managed by the board of trustees of such adjacent and consolidated township, in accordance with the terms of agreement aforesaid, in the same manner as is, or may be provided by law, for the management of territory, funds and other

property of school townships: *Provided*, that the said written agreement shall be duly signed by a majority of the said trustees, and filed for record by the said trustees in the office of the county clerk of the county in which such consolidated township, or the greater part thereof, is situated. [As amended June 21, 1895.]

BUSINESS—Sec. 3. The school business of the township shall be done by three trustees, to be elected by the legal voters of the township, as hereinafter provided for.

CORPORATE BODY—Sec. 4. Such trustees shall be a body politic and corporate, by the name and style of "trustees of schools of township No. . . . range No. . . .," according to the number. The said corporation shall have perpetual existence, shall have power to sue and be sued, to plead and be impleaded in all courts and places where judicial proceedings are had.

ELECTION TIME—Sec. 5. The election of trustees of schools shall be on the second Saturday in April, annually.

TERM—Sec. 6. At the first regular election of trustees, after passage of this act, a successor to the trustee, whose term of office then expires, shall be elected, and thereafter one trustee shall be elected annually. Said trustee shall continue in office three years, and until their successors are elected and enter upon the duties of their office.

ELIGIBILITY—Sec. 7. No person shall be eligible to the office of trustee of schools unless twenty-one years of age, and a resident of the township. And where there are three or more school districts in any township, no two trustees shall reside, when elected, in the same district, nor shall a person be eligible to the office of trustee of schools and school director at the same time.

PURPOSE—Boards of trustees are created for school purposes and no other and have no power except that given to them by the statute. Such boards are known as *quasi* corporations and are established for express purposes. The supreme court clearly defines the relation of a board of trustees to the State: "No act of the General Assembly has ever granted the title of school property and funds irrevocably to any body of persons.

They have created corporate bodies to handle and control the funds for the use of the people, but that body has not parted with the power to control the fund in any mode they choose for the use of the schools. They could, if disposed, deprive those to whom its management is intrusted of the fund, and intrust it to others. Whilst the increase of the fund should be expended in the support of schools, the manner or agency employed may be at all times controlled or changed by the State at pleasure. The State is virtually a trustee of the fund for the use of the people, and the municipalities and officers are but the agencies employed by the State in executing its trusts.—78 Ill., 136; 80 Ill., 384.

QUALIFICATION OF VOTER—In the election of school trustees the voter must have the same qualifications as if voting at a general election, *i. e.* he must have resided in the State one year, in the county ninety days, and in township thirty days. If the township is divided by a county line then he may remove from one part of the township to a part in the other county, one, three or any number of days prior to such election and yet retain his right to vote, provided he has resided in the State one year, and in the township in such cases ninety days.

In the election of trustees if there are three or more school districts in the township, two trustees must not be elected in one district, but should a trustee after his election remove to a district where another trustee resides, his office does not become vacant.

ELIGIBILITY—To hold the office of trustee the person must be an actual resident of the township, and have resided in the State one year.

In posting notices the day on which the election is held must not be counted, neither must election day be counted in determining the time a voter has resided in the election precinct or township. The notice of election must specify the time and place, *i. e.* the day, hour or hours, and the place, and such notices must state what is to be done at such election. There must be five notices of such election posted for at least ten days prior to the election day, unless such notice is given by the town clerk, then the three notices provided for town election are sufficient. When such elections are held by the trustees the hour of opening the polls is usually from one o'clock to four o'clock p. m.

NOTICE—Sec. 8. Notice of the election of school trustee shall be given by the township treasurer, upon the order of the trustees of schools, by posting notices of such election, at least ten days previous to the time of such election, in not less than five of the most public places in said township, which notice shall specify the time and place of election and the object thereof, and may be in the following form, *viz.:*

Public notice is hereby given that on Saturday, the.....day of April, A. D.....an election will be held at.....between the hours of.....and.....of said day, for the purpose of electing.....school trustee for township No.range No.... By order of the board of trustees of said township.

.....
Township Treasurer.

FIRST ELECTION—Sec. 9. In townships where no election for school trustees has heretofore been held, or in townships where, from any cause, there are no trustees of schools, the election of trustees of schools may be holden on any Saturday, notice thereof being given as required by section 8 of this article. The first election in such townships shall be ordered by the county clerk of the county, who shall cause notice to be given as aforesaid.

FIRST ELECTION—Sec. 10. In case of an election held, as required by the preceding section, the trustees elected, at their first meeting, shall draw lots for their respective terms of office for one, two and three years and thereafter one trustee shall be elected annually, at the usual time for electing trustees, to fill the vacancy occurring. At all elections after said first election, the said notice shall be given by the trustees of schools, through the township treasurer, as in other elections for trustees.

JUDGES—Sec. 11. The trustees of schools of incorporated townships present shall act as judges, and choose a person to act as clerk of said election. If the trustees (or any of them) shall fail to attend, or refuse to act when present, the legal voters present shall choose from their number such additional judges as may be necessary. In any township lying within the limits of a city, village or incorporated town, which has adopted the provisions of "An act regulating the holding of elections, and declaring the result thereof in cities, villages and incorporated towns in this State," approved June 19, 1885, the said election shall be held under the provisions of said act. In unincorporated townships, the qualified voters shall choose, from amongst themselves, the number of judges required to open and conduct said election.

VOTERS—Sec. 12. No person shall vote at any school election held under the provisions of this act, unless he possesses the qualifications of a voter at a general election.

WHO MAY VOTE—The question as to who is entitled to vote at an election is often difficult for the election officers to decide. This is especially so in towns and cities, where some institution of learning is located and attended by students from many sections of the country. What constitutes a residence sufficient to entitle one to vote when party workers and the voter himself are ready to swear in the vote is no easy matter in determining. In rendering the opinion on this question the court said:

"The question turns upon what is a permanent abode and this must be determined by facts and intention. The legislature ought to establish a criterion of residence by declaring that a permanent abode shall be such criterion. Now what is a "permanent abode?"

RESIDENCE—"A resident of this State left with a view to seeking a better climate, and if he found one that suited him, and everything else was agreeable, of making it his home, but with no particular place in view. He visited Iowa, Nebraska and Kansas, and in the latter State he took a contract to do some hauling for a railroad bridge being built. There he was taken sick, and returned to his former home in this State, never having acquired a residence or determined to make his residence at any other place than Illinois, and having been absent, in all, about seven months: Held that he did not lose his residence in Illinois."

A party who leaves the State, without any settled intention of acquiring a residence elsewhere, but only with a conditional intention of so doing, does not lose his residence here so long as that residence remains constitutional."—80 Ill., 74; 81 Ill., 541.

* * * It would be safe to say a permanent abode in the sense of the statute, means nothing more than a domicile, a house, which the party is at liberty to leave as interest or whim may dictate, but without any present intention to change it. One who has a home in a town in this State is, by law of the State, liable to town duties, to be taxed on his personal property, to be enrolled in the militia and placed on the jury list and serve as jurymen, and to be chosen to fill town or county offices if of mature age and possessed of other proper qualifications and he is entitled to all the privileges of the town, and to receive its support in the event of his becoming a pauper. These students were undergraduates of Shurtleff college, * * * taking no part in town affairs, and paying no taxes and not assessed on personal property to aid in defraying the expenses of the town. Some of them paid a road tax in their own labor. The homes of some of them are in distant States, who have nothing to attach them to the town in which the college is situated. Others who testify they are entirely free and that Upper Alton is their home, having no other to which to return in case of sickness or domestic affliction, are as much entitled to vote as any other resident of the town. It is *pro hac vice*, the home of such students, their permanent abode, in the sense of the statute. As a general fact, however, undergraduates of colleges are no more identified with residents of the town in which they are pursuing their studies, than the merest stranger, and should all the seats of learning in the United States be polled, not more than one student in twenty would be found to possess the proper qualifications of a resident of the town.

It is urged that some of the students paid a poll tax in labor, and that this should weigh in determining the question of residence. By the statute in force when the road labor was performed, residence was not a qualification, but simply inhabitancy. Road labor was held not to be a tax in 29 Ill., 490."—78 Ill., 170.

The legal requirements to entitle one to vote are citizenship, age and residence. Men and women stand equally in this respect. The only distinction that is found is in the manner of naturalization in the case of some women. The statute of the United States in an act approved Feb. 10, 1855, provides that an alien-born woman becomes a citizen on her marriage to a citizen of the United States.

OATH—The officers of any election should first be sworn by some officer authorized to administer an oath. If no such officer is present, then the statute permits the judges and clerks to administer the oath to each other. Should election boards fail or neglect to be sworn as the law directs, such neglect would not invalidate the election or prevent the person or persons declared elected at such election, assuming the office.

OATH OF ELECTION JUDGES AND CLERK—I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Illinois, and that I will faithfully dis-

charge the duties of.....of this election to the best of my ability.

Subscribed and sworn before me this.....day of.....1....

CEASES TO EXIST—If an election board closes the election, counts the votes and dissolves, such board can not legally reconvene. When once dissolved the board is officially dead.

The same rules of law governing any and all school elections, the same as in the case of any general election, and to prevent bickering and often litigation in school districts and townships, election boards should use the greatest care and labor to conduct the elections in accordance with the law. The statute, in fact the State constitution, provides that all voting at elections shall be by ballot. If there are two or more trustees to elect, as might be the case in some instances, one for a full term and others to fill vacancies, the ballots should show which is for full term, which for one year and which for two years. The law contemplates that the ballot should show the intention of the voter, that the judges may count the vote properly. It is suggested that the ballot may be in this form:

FOR TRUSTEE.

GEORGE AMES, (For full term.)

ABNER CROFT, (For two years.)

SUSAN LYON, (For one year.)

BALLOTS SPECIFIC—If no ballots are specific, it is the duty of the judges of the election to determine by lot on the day of the election who shall receive the office for the full term and who shall be entitled to serve to fill the respective vacancies, and shall so certify the returns to the township treasurer. In case there are some ballots specific and some that are not so, then those that are specific must govern to the conclusion of all others, or those that are not specific. To illustrate: "Abner Croft" receives four votes for the two year term and seven votes not specific—"Wm. Evans" receives three votes for the two year term and twelve votes which are not specific. "Croft" should be declared elected for the two year term, having received a majority of the specific votes cast at such election for the two years' term. It is not required that any school election be held under the "Australian ballot law."—160 Ill., 557.

ELECTION CONDUCTED—Sec. 13. The time and manner of opening, conducting and closing said election, and the several liabilities appertaining to the judges and clerks and to the voters, separately and collectively, and the manner of contesting said election, shall be the same as prescribed by the general election laws of this State defining the manner of electing magistrates and constables, so far as applicable, subject to the provisions of this act: *Provided* that said election may commence, if so specified in the notice, at any hour between the hours of eight (8) o'clock a. m., and one (1) o'clock p. m., and the judges may close an election at four: (4) o'clock p. m.

POSTPONEMENT.—Sec. 14. If, upon any day appointed for election of trustees of schools, the said trustees or judges shall be of opinion that, on account of the small attendance of voters, the public good requires it, or if a majority of the voters present shall desire it, they shall postpone said election until the next Saturday, at the same place and hour, at which time and meeting the voters shall proceed as if it were not a postponed or adjourned meeting: *Provided*, that if notice shall not have been given of such election, as required by section 8 of this article, then and in that case said election may be ordered as aforesaid, and holden on any other Saturday, notice thereof being given as aforesaid.

HOW CALLED—Sec. 15. If the township treasurer shall fail or refuse to give notice of the regular election of trustees, as required by section 8 of this article, and if, in case of a vacancy, the remaining trustee or trustees shall fail or refuse to order an election to fill such vacancy, as required by section 16 of this article, then, and in each of such cases, it shall be the duty of the county superintendent to order an election of trustees to fill such vacancies as aforesaid, and all elections so ordered and held shall be valid to all intents and purposes whatever.

VACANCY—Sec. 16. When a vacancy or vacancies shall occur in the board of trustees of schools, the remaining trustee or trustees shall order an election to fill such vacancy, upon any Saturday, notice to be given as required by said section 8 of this article.

TIE—Sec. 17. In case of a tie vote at any election of school trustees, the election shall be determined by lot, on the day of the election by judges thereof.

POLLING PLACES—Sec. 18. In townships where for general elections, there are more than two (2) polling places, the trustees shall give notice that polls will be opened for such elections in at least two places; in which case at least one of said trustees shall attend at each of said places, and additional judges shall be chosen as provided in section eleven (11) of this article: *Provided*, there shall be at least one polling place for each eight hundred legal voters in said township. Should the polling places be in excess of the number of trustees, then the voters at such polling places so in excess shall select from their number the requisite number of voters, who shall act as judges of said election in the manner provided for by section eleven (11) for the election of trustees in unincorporated townships. Said judges shall return the ballots and original poll-books, with a certificate thereon, showing the result of the election in said precinct, to the township treasurer of

the township in which said election shall be held, whereupon it shall be the duty of the board of trustees of said township, within five days after said election, to meet and canvass the returns from each precinct, to make out a certificate showing the number of votes cast for each person in each precinct, and in the whole township, and shall file said certificate with the county superintendent of schools as otherwise provided by law.

CIVIL TOWNSHIP—Sec. 19. In counties adopting township organization, in each and every township whose boundaries coincide and are identical with those of the town, as established under the township organization laws, the trustee or trustees shall be elected at the same time and in the same manner as the town officers. In all such townships, if no trustees are elected at the stated town meeting, and when vacancies occur in the board, an election of trustee or trustees shall be ordered by the remaining trustee or trustees of the schools, through the township treasurer, as provided for in section nine (9) of this article.

PENALTY—Sec. 20. Upon the election of trustees of schools, the judges of election shall, within ten (10) days thereafter, cause a copy of the poll-book of said election to be delivered to the county superintendent of the county, with a certificate thereon showing the election of said trustees and the names of the persons elected, which copy of the poll-book, with the certificate, shall be filed by said superintendent, and shall be evidence of such election. For a failure to deliver said copy of the poll-book and certificate within the time prescribed, the judges shall be liable to a penalty of not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100), to be recovered in the name of the People of the State of Illinois, by action of assumpsit, before any justice of the peace in the county, which penalty, when collected, shall be added to the township school fund of the township.

IRREGULARITIES—Mere irregularities in conducting and holding an election, which deprive no legal voter of his rights and does not change the result, do not invalidate an election. Should the election officers fail to be sworn, or to declare the result of the election, or make return to the township treasurer or to the county superintendent, the office will vest and the acts of the officers will be valid as far as the public and the third parties are concerned. Such charges as that the polls were not duly opened and that proclamation was not duly made as to the closing of the same will not defeat an election unless it can be shown that such irregularities affected enough votes to change the result. In contested elections the intention of the voter in casting his ballot should control, and effect must be given to the intention. The returns of an election may be irregular and defective or not made at all. Such defects

or irregularities are not sufficient to defeat the election and deprive a party from holding the office. Rights to the office are derived from the election, and not from the returns.—147 Ill., 514; 17 Ill., 167; 19 Ill., 54.

NOT JUDICIAL OFFICERS—County superintendents and township treasurers are not empowered to pass on the legality of an election or the returns. Such questions must be settled by contest in the county court as provided by the statute.—18 Ill. App., 588.

ELECTION ADJOURNED—Section 14 of this article provides for an adjournment or postponement of an election, but such adjournment must be taken in a regular way. The trustees may, on their own motion, postpone, or the voters present may do so, but, before such action is taken, there must be an organization effected, and if then it is decided to postpone, notice to that effect must be posted, stating that such action has been taken. Should the trustees postpone the election upon their own motion, they are required to give due notice of their action, by posting notice at once. If the notice spoken of is not posted there is nothing to prevent the voters who may assemble later in the day, from organizing and proceeding to hold the election in pursuance of the notice as first given.

NAMES—Sec. 21. When school trustees are elected at town meetings, as provided in section nineteen (19) of this article, it shall be the duty of the county clerk, as soon as the list of names of officers elected at the town meetings is filed with him, to give the county superintendent a list of the names of all school trustees elected at the town meetings of the county, and of the towns for which they are elected.

ORGANIZATION—Sec. 22—Within ten days after annual election of trustees, the board shall organize by appointing one of their number president, and some person who shall not be a director or trustee, but who shall be a resident of the township, treasurer, if there be a vacancy in this office, who shall be *ex officio* clerk of the board.

MUST ORGANIZE—This section makes it the duty of the board of trustees to meet and organize within ten days after the election, by appointing one of their number president, and in even years to appoint a treasurer. Prior to 1880 school treasurers were appointed for one year, but by the act of the legislature in 1879, the trustees were authorized to appoint for two years, beginning April 1880. If a treasurer resigns, removes, or his office should become vacant by death or otherwise, his successor is appointed for the remainder of the term. In many instances boards of trustees make the appointment at the meeting the first Monday in April, which in many townships occurs before the election. Such appointments are not warranted by law, except in cases where the trustee is elected at the town meeting held before the first Monday in April. The new board or new organization appoints the treasurer, and not the old board. In a case where a treasurer at the meeting of the

trustees on the first Monday in April, a few days prior to the election of a trustee, resigned which was but a few days before the expiration of his term, that the old board might appoint a certain individual treasurer for the next term, as it was thought that the election would result unfavorable to the appointment of such individual, it was held that the appointment did not give the office to the person so appointed longer than till such time as the new board might meet and appoint a treasurer for the full term. Should a board fail to meet and organize, the offices would not become vacant, but the members are each liable to a fine of twenty-five dollars. Trustees must act at regular meetings or special meetings called by the president or any of the members. Two members constitute a quorum, provided all have notice of the meeting. Corporate boards cannot bind the corporation if the members act independently. Such boards must convene in their corporate capacity. If two members incidentally get together, they cannot transact, legally, any official business that will bind the township or the corporation.

REGULAR MEETINGS—Regular meetings may be arranged for by rule, but for special meetings due notice must be given to *all* the members, and the time and place must be fully stated. At any special meeting of the board of trustees or directors, if one of the members is omitted and ignored in giving notice such meeting is illegal and not binding. If a third member is so far away and inaccessible that he cannot be reached by notice, and the business is such that it can not well be delayed, the law, in such case, would bear out the majority in holding a meeting and attending to the business, but such meetings should be held only in cases of emergency.—Ill. App. (Smith) 229; 10 Ill. App., (10 Brad.) 643; 22 Ohio, 144; 4 Neb., 254; 47 Mich., 626; 27 Kan., 129; 41 N. J. L., 312; 22 Ill., 66; S. C. Reports, N. Y., Hun. 30, 200; 89 Pa., 395.

NOTICE OF SPECIAL MEETING OF TRUSTEES.

To.....

You are hereby notified that there will be a special meeting of the trustees of schools of township No....., Range No..... at.....on the.....day of.....I....at the hour of..... o'clock .. m., to attend to the following business:

Remark: The notice must be signed by the president or by two members.

OATH NOT REQUIRED—The question is often raised by school officers as to whether trustees, treasurers, directors, and members of boards of education should take any official oath, before assuming the duties of the office. The Supreme Court in the 79 Ill., 511 decides that such officers are not required by law to take such oath, as the legislature from some cause has failed to pass any law requiring these officers to be sworn.

TERM OF OFFICE—Sec. 23. The president shall hold his office for one year, and the treasurer for two years, and until their successors are appointed, but either of said officers may be removed by the board for good and sufficient cause.

CAUSES SUGGESTIVE—In a catalogue of "good and sufficient

causes," it is quite impossible to name all things for which these offices may be removed, but those of a sufficiently grave character will suggest themselves to any board that guards the interest of the schools.

DUTIES OF PRESIDENT—Sec. 24. It shall be the duty of the president to preside at all meetings of the board and it shall be the duty of the clerk to be present at all meetings of the board, and to record in a book to be provided for the purpose, all of their official proceedings, which book shall be a public record, open to the inspection of any person interested therein. All of said proceedings when recorded shall be signed by the president and clerk. If the president or clerk shall be absent or refuse to perform any of the duties of his office at any meeting of the board, a president or clerk *pro tem*, may be appointed.

MEETINGS.—Sec. 25.—It shall be the duty of the board of trustees to hold regular semi-annual meetings on the first Mondays of April and October, and special meetings may be held at such other times as they think proper. Special meetings of the board may be called by the president or any two members thereof. At all meetings two members shall be a quorum for business.

DUTY OF TRUSTEES—It is the legal duty of boards of trustees to keep a full and accurate record of the business transacted at any regular or special meeting. The importance of this cannot be impressed on trustees and other school boards too strongly. The officers of the board *should sign* the record when made up.

APPOINTMENT—Sec. 26. At the regular semi-annual meetings on the first Mondays of April and October, the trustees shall ascertain the amount of State, county and township funds on hand and subject to distribution, and shall apportion the same as follows:

First—Whatever sum may be due for the compensation and the books of the treasurer, and such sums as may be deemed reasonable and necessary for dividing school lands, making plats, etc.

Second—And the remainder of such funds shall be divided among the districts, or fractions of districts, in which schools have been kept in accordance with the provisions of this act and the instructions of the State and county superintendents during the preceding year ending June 30, in proportion to the number of children under twenty-one (21) years of age in each.

CREDIT FUND—Sec. 27. The funds thus apportioned shall be placed on the books of the treasurer to the credit of the respective districts, and the same shall be paid out by the treasurer on the legal orders of the directors of the proper districts in the same manner as other funds of the district are paid out.

IMPORTANT MEETING—As the law now stands the meeting in

April is the more important, as the greater part of the fund is to be distributed to the districts, and petitions for changes in boundaries are to be considered at this meeting. If for any cause the board should not meet the first Monday in April as directed by law, the trustees should meet at the earliest opportunity and transact the business. In making the distribution the board should ascertain what districts are, and what districts are not entitled to share in the distribution. If a district has failed to maintain school six months actually taught, though days on which the teacher attended the teachers' institute may be counted, or if the teacher did not have a valid certificate for the entire term, or if the school was in any way sectarian, or if the school did not afford instruction in the branches prescribed and allowed by law, or if the children of the district were not fairly and reasonably well accommodated with the privileges of school, then it is the legal duty of the trustees to exclude any such district from sharing in the distribution. If a new district has been formed and there had not been time for such district to comply with the requirements, then such new district must not be excluded, but it must share in the funds. At the meeting in October if there should be any interest or any part of the distributable fund that is not needed for school purposes, then the board may order it added to the permanent township fund and loaned for the benefit of the schools.—Sec. 13, Art. IV, School Law. The first point in the language of this section is in the words "Not needed for school purposes." So long as people levy special taxes to maintain schools it would seem that any funds on hand would be needed for school purposes. If a township held sufficient permanent funds to produce an income together with the funds distributed to the townships by the county superintendent, sufficient to support the schools, then the surplus, after paying all the expenses of the schools, might, under this clause, be added to the township fund.

DIVIDED BY COUNTY LINE—If a township is divided by a county line the township treasurer receives funds from both county superintendents, and it is the duty of the trustees to treat the funds so received, and to distribute the same as if received from one county. If any district or districts in such township have failed to keep school as the law requires, such district or districts shall not share in the distribution of funds. In the distribution of funds to the districts in townships divided by county lines, it is the duty of the trustees to ignore the line and deal with the districts the same as if they were all in one county.

REPORT—Sec. 28. The board of trustees of each township in this State shall prepare, or cause to be prepared, by the township treasurer, the clerk of the board, the directors of the several districts, or other person, and forwarded to the county superintendent of the county in which the township lies, on or before the 15th day of July, preceding each regular session of the General Assembly of this State, and at such other times as may be required by the county superintendent, or by the State Superintendent of Public

Instruction, a statement exhibiting the condition of schools in their respective townships for the preceding biennial period, giving separately each year, commencing on the first of July and ending on the last of June, which statement shall be as follows:

First—The whole number of schools which have been taught in each year; what part of said number have been taught by males exclusively; what part have been taught by females exclusively; what part of said whole number have been taught by males and females at the same time, and what part by males and females at different periods.

Second—The whole number of scholars in attendance at all the schools, giving the number of males and females separately.

Third—The number of male and female teachers, giving each separately; the highest, lowest, and average monthly compensation paid to male and female teachers, giving each item separately.

Fourth—The number of persons under twenty-one years of age, making a separate enumeration of those above the age of twelve years who are unable to read or write, and the cause or causes of the neglect to educate them.

Fifth—The amount of the principal of the township fund; the amount of interest in the township fund paid into the township treasury; the amount raised by *ad valorem* tax, and the amount of such tax received into the township treasury, the amount of all other funds received into the township treasury.

Sixth—Amount paid for teachers' wages; the amount paid for school house lots; the amount paid for building, repairing, purchasing, renting and furnishing school houses; the amount paid for school apparatus, for books and other incidental expenses for the use of school libraries; the amount paid as compensation to township officers and others.

Seventh—The whole amount of the receipts and expenditures for school purposes, together with such other statistics and information in regard to schools as the State Superintendent or county superintendent may require. And any township from which such report is not received in the manner and time required by law, shall forfeit its portion of public funds for the next ensuing year. *Provided*, that upon the recommendation of the county superintendent, or for good and sufficient reasons, the State Superintendent may remit such forfeiture.

TREASURER MAKE DUPLICATE REPORT—The township treasurer should make and file in his office a duplicate copy of the annual report of the trustees to the county superintendent, and, and at the same time he should balance the various accounts with the district and other funds, that there may be no difficulty in knowing the

balances with which to start subsequent reports. This rule, if followed, will save much vexation on the part of those who have to make and deal with these annual statements.

DIVIDED TOWNSHIPS—Sec. 29. In all cases where a township is, or shall be divided by a county line or lines, the board of trustees of such township shall make or cause to be made separate enumerations of male and female persons of the ages as directed by section 28 of this article, designating separately the number residing in each of the counties in which such township may lie, and forward each respective number to the proper county superintendent of each of said counties; and in like manner, so far as practicable, all other statistics and information enumerated and required to be reported in the aforesaid section, shall be separately reported to the several county superintendents; and all such parts of said statistical information as are not susceptible of division and are impracticable to be reported separately, shall be reported to the county superintendent in which the sixteenth section of such township is situated.

TRUSTEES' REPORTS—Sections 28 and 29 require trustees to make, on or before July 15th, an annual report to the county superintendent and enumerate many items which shall be embodied in the report, together with such other matters and information as may be called for by the State Superintendent. School trustees are not warranted in law in delegating this duty and labor to the township treasurer. The members are responsible and for failure or neglect are liable, under the law, to a fine of \$25 each, and should the forfeiture of funds be enforced and cause a loss to the townships the trustees are liable for any and all loss so sustained through their failure or negligence. The State Superintendent furnishes through the county superintendent all necessary blanks and instructions in due time that the report may be made properly, and there is no valid reason why such report may not be prepared in due season. For making false reports knowingly and willfully trustees subject themselves to a fine of one hundred dollars, and it would be no avail for them to plead that directors had failed to furnish the proper and necessary returns to enable them to comply with the requirements of the law.

The right and power to enforce the forfeiture of right of the township to share in funds for failure to furnish the required report is sustained by the Supreme Court.—47 Ill., 321.

DIVIDED BY COUNTY LINE—REPORT TO EACH COUNTY—In a township divided by a county line, the trustees must make two reports, one to each county superintendent as directed by law and the requirements and instructions of the State Superintendent. Such items as enrollment of pupils, days of attendance, and the enumeration of children, etc., must be reported to the county in which the children reside. In reporting the condition of the township fund, such report goes to the county in which the 16th section of the town-

ship lies. The treasurer's bond should be filed and recorded in that county. Where a school district is divided by a county line, the school should be reported to the county in which the house is located as a school of that county, and in reporting the cost of the school, as expense of teaching together with all other expenses and costs, it should be treated and reported the same as a district entirely within the county, but in such schools the teacher is required to keep and return schedules for the pupils in each county, and the attendance and enrollment of such pupils must be reported to the respective counties. In short we may add that all matters that are susceptible of division, must be divided when making reports for townships, and districts divided by county lines; and all matters that are not susceptible of division must be reported to the county in which the 16th section of the township is situated, or if a matter of the school district, to the county in which the school house is situated. The teacher should have a certificate from the county superintendent of the county in which the school house is located, and he is not required to hold a certificate from both counties.

EXAMINE BOOKS—Sec. 30. At each semi-annual meeting, and at such other meetings as they may think proper, the said township board shall examine all books, notes, mortgages, securities, papers, moneys and effects of the corporation, and the accounts and vouchers of the township treasurer, or other township school officer, and shall make such order thereof for their security, preservation, collection, correction of errors, if any, and for their proper management, as may seem to said board necessary.

MUST EXAMINE BOOKS—By this section it is plainly made the duty of the trustees to carefully examine the books, accounts, vouchers, notes, mortgages, moneys, and effects in the treasurer's hands belonging to the township, and shall make such order or orders as may appear for the best interest of the township. For a failure to discharge such duty they are liable to a fine of twenty-five dollars.

GIFTS—Sec. 31. The trustees of schools in each township in the State may receive any gift, grant, donation or devise made for the use of any school or schools, or library, or other school purposes within their jurisdiction, and they shall be and are hereby invested, in their corporate capacity, with the title, care and custody of all school houses and school house sites: *Provided*, that the supervision and control of such school houses and school sites shall be vested in the board of directors of the district.

SELL SITE—Sec. 32. When, in the opinion of any board of directors, the school house site or any buildings have become unnecessary or unsuitable or inconvenient for a school, the board of trustees, on petition of a majority of the voters of the district, shall sell and convey the same in the name of the said board, after giving at least twenty days' notice of such sale by posting up written or printed

notices thereof, particularly describing said property, and the terms of sale, which notice may be in the following form, viz.:

Public notice is hereby given that on the. day of. A. D., the trustees of schools on township No., range No. will sell at public sale, on the premises hereinafter described, between the hours of ten o'clock a. m. and three o'clock p. m., the school house situated on the school-house site, known as (here describe the site by its number, commonly known name, or other definite description,) and located in the (here describe its place in the section) which sale will be made on the following terms, to-wit: (here insert as "one-third of the purchase money cash on hand, and the balance in two equal payments, due in one or two years from the day of sale, with interest at the rate of. . . per cent. from date.")

A. B.

C. D.

E. F.

Trustees.

And the deed of conveyance of the property so sold shall be executed by the president and clerk of said board, and the proceeds of such sale shall be paid over to the township treasurer, for the benefit of said district.

CONVEYANCE—Sec. 33. All conveyances of real estate which may be made to said board, shall be made to said board in their corporate name, and to their successors in office.

GRANTS AND GIFTS—Section 31 clearly states what trustees may do in the case of grants and gifts for schools and school purposes, and says that the title of all the property of a school shall be in the trustees, but the supervision and control of the school houses and school property shall be in the boards of directors or the boards of education of the school districts. Insurance policies and deeds should run in the names of the trustees and their successors for the use of the districts, and not in the names of the directors or boards of education. If a district by its directors purchases a school site the deed should be made to the trustees and not to the directors, nor as in the case in many instances, to the district by its number, which as is the case in many instances, to the district by its number, which numbers of the Corporate township remain.

INSURANCE POLICIES—All insurance policies and deeds for school sites should be in the custody of the township treasurer, and the latter should be recorded in the office of the recorder of deeds of the county. If the house is lost or damaged by fire or tornado under the insurance policy, the money received for such loss or damage must be paid to the township treasurer for the district as he is the bonded officer and is the proper custodian of *all* funds belonging to his township, or to the school districts in the same.

In some cases it may be necessary to bring suit to compel a party or parties to make a deed for a school site, and in such instance the suit must be brought in the name of the trustees and not in the name of the treasurer, directors, district, nor board of education.—81 Ill., 180.

BAD POLICY—It is a bad policy for a district or board of directors to build on ground that is not owned by the district. Such action frequently causes much bickering and ill feeling in a district sooner or later. The legislature has not deemed it proper to prohibit the erection of school houses on land not belonging to the district, yet such a policy should not be pursued. A close construction of the law as it now stands, without any express provision to the contrary, and an application of business principles should prevent directors and boards of education in expending public funds in building on and improving property where the site is not owned by the district.

DOES NOT REVERT—Land purchased by a district for a school site should be deeded to the trustees in fee simple without the clause in the deed reverting the property when no longer used for school site or school purposes. The supreme court has decided that such land or property may be made to continue for the use and support of the school though located and kept up on another site. This could be done by renting the property, the income or rent going to help support the school.—71 Ill., 546; 135 Mass., 147.

TITLE CORRECTED—Where a site is used for school purposes, the site being dedicated for such purpose, and the conveyance is faulty or defective, a court of chancery will remedy the error or defect—58 Ill., 432.

ACQUIRED TITLE—In case a district has held undisputed possession and control of school site for twenty years, such district may retain possession of such site so long as the same is used for school purposes, even though there is no record of legal transfer. In such instances the owners and purchasers of adjoining property can not ignore the rights of the school district.

BURNING SCHOOL HOUSE—"Every person who shall willfully and maliciously burn or cause to be burned any * * * school house * * * shall be deemed guilty of arson, and upon conviction thereof shall be punished * * * and should the life of any person be lost in consequence of such burning, such offender shall be deemed guilty of murder, and punished accordingly.—Rev. Stat. Ill., Crim. Code Sec. 13.

ENTERING SCHOOL HOUSE—"Whoever willfully and maliciously and forcibly breaks and enters, or maliciously, without force (the doors or windows being open) enters into any * * * school house * * * with intent to commit murder, robbery, etc., shall be deemed guilty of burglary and be imprisoned, etc."—Rev. Stat. Ill., Crim. Code, Sec. 36.

TRESPASS—School directors may maintain an action for trespass against any unauthorized person for breaking into and entering a school house.—91 Ill., 170.

DISTURBANCE OF SCHOOL—"Whoever willfully interrupts or disturbs any school * * * shall be fined, &c.—Rev. Stat. Ill., Criminal Code, 336.

INJURY—"Whoever willfully and maliciously, wantonly, and without cause, destroys, defaces, mars or injures any school house * * * or any of the outbuildings, fences, walls or other appurtenances of such school house * * * shall be fined, etc."—Rev. Stat. Ill. Crim. Code, Sec. 196.

CRIMINALLY LIABLE—School officers paying out funds illegally are personally liable for the money so paid out, and are subject to prosecution under the criminal law for diversion of public funds.—Rev. Statute Ill.; 31 Wis., 233.

LIABILITY FOR CRITICISM—When directors have dismissed a teacher, they are sometimes asked why, especially by directors of other districts in which the teacher has made application for a school. In such cases the reply is privileged, and if made in good faith an action for libel or slander will not stand. If the statements are false and give the teacher a bad character which he does not deserve, the director or person making such statements lays himself liable to an action for libel.

If a teacher has been discharged and is about to contract for a new school, it is not the duty of the directors to *volunteer* information as to such teacher's character, and it is much safer for them to wait until asked before making any statements. A letter from a parent to the directors of the district, complaining of the teacher, if written with an honest purpose and for the public good is privileged.—Tounshen on Libel, 385; 3 Pick. 201.

DOORS OF SCHOOL HOUSES—The law in force July 1, 1874 provides that the doors of all school houses thereafter erected shall be so constructed that all doors from the principal room, main hall, and those for egress from the building shall be so swung upon their hinges as to open outwards; and provides that any person or persons failing to comply with these provisions shall be fined in the sum not less than \$100 nor more than \$1000.—Rev. Stat. Ill., Chapter III.

REMOVAL—SUIT ON BOND—Sec. 34. The township shall cause all moneys for the use of the townships and districts to be paid over to the township treasurer, who is hereby constituted and declared to be the only lawful depository and custodian of all township and district school funds. They shall have power also to remove the township treasurer, at any time, for any failure or refusal to execute or comply with any order or requisition of said board, legally made and entered of record, or for other improper conduct in the discharge of his duty as treasurer. They shall also have power for any failure or refusal as aforesaid to sue him upon his official bond and recover all damages sustained by the said board in its corporate capacity, by reason of such neglect or refusal as aforesaid.

TREASURER RESPONSIBLE—This section need not be discussed at length, as it is quite clear that the law makes the township treasurer the proper and legal custodian of all funds belonging to the township, or the school districts therein. He should receive all funds, such as insurance money, tuition fees, interest, rents, taxes, proceeds for bonds sold, distributable fund, etc. By law he is an insurer as well as a securer of the funds, and the trustees have no authority to withdraw such funds from the treasurer and deposit them elsewhere. A school treasurer must not receive for school

funds any thing which is not authorized by law, if he does and there is any loss or damage resulting therefrom, he must make such loss good.—99 Ill. 564; 7 Ill. App. (7 Brad.) 122; 82 Ill. 132; 34 Mich., 371.

PURCHASE LAND—Sec. 35. The township trustees are hereby vested with the general power and authority to purchase real estate, if in their opinion the interest of the township fund will be promoted thereby, in satisfaction of any judgment or decree wherein the said board or the county superintendent are plaintiffs or complainants; and the title of such real estate so purchased shall vest in the said board for the use of said inhabitants of said township, for school purposes.

SETTLEMENT—Sec. 36. The board of trustees are hereby vested with general power and authority to make all settlements with persons indebted to them in their official capacity; or to receive deeds to the real estate in compromise; and to cancel, in such manner as they may think proper, notes, bonds, mortgages, judgments and decrees existing or that may hereafter exist, for the benefit of the township, or of the fund concerned shall, in their opinion, require it; and their action in the premises shall be valid and binding.

LEASES AND SALES—Sec. 37. The board of trustees are hereby authorized to lease or sell at public auction, any land that may come into their possession in the manner provided for in either of the two preceding sections in such manner and on such terms as they may deem for the interest of the townships: *Provided*, that in all cases of sale of such land, the sale shall either be at the door of the court house, where judicial sales of land are usually made, or else on the premises to be sold, as the trustees may order and direct: *And, provided*, that in all cases of sale of land, as provided in this section, the sale shall be made in the manner provided for sale of the sixteenth section by section 14 of article XIII of this act.

TO SETTLE CLAIMS—Trustees are authorized to settle claims and receive deeds to real estate in compromise, and to cancel notes, bonds, mortgages, judgments and decrees for the benefit of the township, when the interest of the township or such fund in their opinion require it, and they cannot grant this power to others, nor submit the question to the people of the township. The law presumes that the trustees in such cases will act in good faith, using their best judgment.

In many instances where land is acquired by a township, by compromise or foreclosure, such property is taxed. Such instances appear contrary to the intention of law. The fund represented by such real estate is clearly not taxable, hence the land while held by the

trustees as property belonging to the township is not liable to taxation, except by special assessment.—80 Ill., 384; 118 Ill., 52; 124 Ill., 312; 95 Ind., 175; 62 Ia., 46; 56 Vt. 556.

EXEMPTION FROM TAX—To secure the exemption of lots from taxation as school property it must be shown to be property of an "institution of learning" which is not leased, or otherwise used with a view to profit, and to exempt them as church property it must be shown that they are owned by some congregation, and that they are used exclusively for public worship."

The words "all public school houses" which are declared in the statute, exempt from taxation, refer to the public school houses owned by the State, or school districts and boards of education organized under the school laws of the State" Boards of supervisors have no power to relieve land from the burden of taxation unless it is exempt under the statute.—138 Ill., 263.

SALE OF LAND—Any lands coming into the possession of the township trustees by foreclosure, compromise, etc., may be sold at public auction by the trustees on their own petition or motion, by giving due notice of the time, place and conditions of the sale, which notice must describe the property. If there is a newspaper published in the county such notice shall be inserted in such paper for at least four weeks before the sale. In the event of no paper being published in the county, at least six notices of such sale must be posted in the most public places within such county at least forty days prior to the date of sale. Such sales must be conducted at the Court House of the county or made upon the premises. No officer is allowed any commission for such sale or sales, but the trustees may allow a reasonable compensation for such service. Land so acquired and held by the trustees is not subject to general taxes. For decision see under discussion, "Exempt from Tax."

HIGH SCHOOL—Sec. 38. Upon petition of not less than fifty voters of any school township, filed with the township treasurer at least fifteen days preceding the regular election of trustees, it shall be the duty of said treasurer to notify the voters of said township that an election "For" or "Against" a township high school will be held at the said next regular election of trustees, by posting notices of such election in at least ten of the most public places throughout such township, for at least ten days before the election; which notices may be in the following form, viz.:

"HIGH SCHOOL ELECTION."

Notice is hereby given that on Saturday, the of April, A. D. an election will be held at for the purpose of voting "For" or "Against" the proposition to establish a township high school for the benefit of township No. range No. The polls for said election will be open at and close at o'clock of said day.

A. B.,

Township Treasurer.

Provided, that when any city in this State, having a population of

not less than one thousand and not over one hundred thousand inhabitants, lies within two or more townships, then that township in which a majority of the inhabitants of said city reside shall, together with said city, constitute a school township under this act for high school purposes. [As amended by act approved June 19, 1891.

BALLOTS—Sec. 39. The ballots for such election shall be received and canvassed as in other elections, and may have thereon the name of the person or persons whom the voter desires for trustee or trustees.

BOARD OF EDUCATION—Sec. 40. If a majority of the votes at such election shall be found to be in favor of establishing a township high school, it shall be the duty of the trustees of the township to call a special election on any Saturday within sixty days from the time of the election establishing the township high school, for the purpose of electing a township board of education, to consist of five members, notice of which election shall be given for the same time and in the same manner as provided for in the election of township trustees. The members elected shall determine by lot, at their first meeting, the length of term each is to serve. Two of the members shall serve for one year each, two for two years, and one for three years from the second Saturday of April next preceding their election. Whenever a vacancy occurs (except by death or resignation), a successor or successors shall be elected, each of whom shall serve for three years, which subsequent election shall be held on the same day and in the same manner as the election of township trustees. In case of vacancy from other cause than the expiration of the term of office, the board shall call an election without delay, which election may be held on any Saturday, notice of which shall be given for the same time and in the same manner as for the election of township trustees. Within ten days after their election, the members of the township board of education shall meet and organize by electing one of their number president, and by electing a secretary. It shall be the duty of the township board of education to establish at some central point most convenient to a majority of the pupils of the township, a high school for the education of the more advanced pupils.

POWERS—Sec. 41. For the purpose of building a school house supporting the school and paying other necessary expenses, the township shall be regarded as a school district; and the township board of education shall have the power and discharge the duties of directors for such district in all respects.

TWO TOWNSHIPS—Sec. 42. In like manner the voters and trustees of two or more adjoining townships, or parts of townships, may cooperate in the establishment and maintenance of a high school,

on such terms as they may, by written agreement made and signed by the boards of trustees, enter into.

DISCONTINUE—Sec. 43. When any township, townships or parts of townships, shall have organized a high school and wish to discontinue the same, upon petition of not less than a majority of the legal voters of said township, townships or parts of townships, filed with the township treasurers of said townships, at least fifteen days preceding the regular election of trustees, it shall be the duty of said treasurers to notify the voters of the township, townships or parts of townships, that an election will be held on the day of said regular election of trustees for the purpose of voting "For" or "Against" discontinuing the township high school, which notice shall be given in the same manner, and for the same length of time, and may be in substantially the same form, as the notice provided for in section 38 of this article: *Provided*, that any township where a creek or river divides the same, and it has been divided into towns with such creek or river as a boundry line between them, and each of said towns contains a city, and an election has been held in such township, and carried in favor of establishing a high school, a site for which has been selected in one of said towns, and other proceedings had thereon, a petition, signed by not less than one-fourth of the voters of such township, as shown by the vote of the last general election, may be filed at any time with the township treasurer of said township for an election, for the purpose of voting "For" or "Against" discontinuing the township high school as to the town in which the site is not located. Within ten days after the filing of a petition, as aforesaid, it shall be the duty of such township treasurer to post the notices of an election to be held, according to the prayer of such petition; and if the majority of the votes cast at such election shall be in favor of discontinuing the township high school in the town where the site has not been located, the same shall be discontinued as to it. [As amended by an act approved and in force June 2, 1897.

PROPERTY ADDED—Sec. 44. The ballots for such election shall be received and canvassed in the same manner as provided for in section 39 of this article. If the majority of the votes at such election shall be found in favor of discontinuing the high school, it shall be the duty of the trustees to discontinue the same, and turn all the assets of the said high school over to the school fund of the township or townships interested therein, in proportion to the assessed valuation of said townships, to be used as any other township fund for school purposes.

ELECTION ORDERED—By a vote of the people establishing a township high school in pursuance of sections 38 and 39 above, the town-

ship trustees order an election for the purpose of electing a township board of education, consisting of five members, whose duty it shall be to procure a site, erect buildings, and levy taxes for the purpose of maintaining the school. For maintaining a township high school, the township is a school district and the board of education is clothed with the same powers, authority and duties as those given to and imposed upon boards of school directors. A township high school is supported by taxation, and does not share in any of the funds distributed by the school trustees. The township board of education shall employ teachers, janitors, fix rules governing the schools and qualifications for admission to the school, and adopt a course of study and text-books for the school. They should require the teachers to keep records of attendance, and cause to be made schedules such as are made and returned to boards of directors. In reporting a township high school, the board of education are to report such facts and information as may be called for in the blanks and instructions furnished by the State Superintendent. If a township high school is established by two or more townships jointly, the same law and such terms as the township boards may agree upon, govern.—84 Ill., 491; 92 Ill., 612; 87 Ill., 303.

CAN NOT LEVY—A township board of education can not borrow money, issue bonds nor levy a tax for building and enlarging school houses, with out a vote of the people authorizing them to do so. The same rule of law governing boards of directors applies to township boards of education.—175 Ill., 526.

IS ONE—While the laws governing the common schools are in many articles and sections, in application and construction, it must be considered as a whole.—175 Ill., 526.

HIGH SCHOOL ABOLISHED—If a township or townships decide to abolish the high school by election as provided in the foregoing sections it seems clear that all funds belonging to such high school should be distributed to the districts within such high school district. If the high school should have any bonded debt at the time of abolishing such school, it will be the duty of the proper officers, the trustees from time to time to levy a tax on the property owners in such high school district to meet the payment of such indebtedness.

INTEREST IN BOOKS.—Sec. 45. No trustee of schools shall be interested in the sales, proceeds or profits of any book, apparatus or furniture used in any school in this State with which such trustee may be in any manner connected. For offending against the provisions of this section, any such trustee shall be liable to indictment, and, upon conviction, shall be fined in a sum not less than twenty-five dollars nor more than five hundred dollars, and may be imprisoned in the county jail not less than one nor more than twelve months, at the discretion of the court.

TOWNSHIP DIVIDED—Sec. 46. Trustees of schools in newly organized townships, shall lay off the township into one or more school districts, to suit the wishes or convenience of a majority of the inhabitants of the township, and shall prepare or cause to be pre-

pared a map of the township, on which map shall be designated the district or districts, to be styled, when there are more districts than one, "District No. . . . in township No. . . . range No. . . . of the . . . P. M. (according to the proper numbers), county of . . . and State of Illinois."

ALL TERRITORY—It is the duty of township trustees to see that all the territory in their township is included in school districts, and if through error or oversight any part of the territory is not included in some district, or should a district fail to maintain a legal school for two years, to attach such territory or district to some district or districts within their township.

LEGALITY TESTED—"The legality of the formation of a school district should be tested by an information in the nature of *quo warranto*, and it may be that the common law writ of *certiorari* will furnish an appropriate remedy.—111 Ill., 171; 135 Ill., 464.

LINES CHANGED—Sec. 47. In a township where such division into districts has been made, the said trustees may, in their discretion, at the regular meeting in April, when petitioned as hereinafter provided for, change such districts as lie wholly within their township, so as—

First—To divide or consolidate districts.

Second—To organize a new district out of territory belonging to two or more districts.

"The neglect of trustees to order an election in a new district for the election of directors, at the time fixed by law, will not have the effect of destroying the district; nor will their failure to file with the county clerk a map showing the lands embraced in the new district have that effect, or prevent the directors of the new district from levying taxes therein."—135 Ill., 464.

Third—To detach territory from one district and add the same to another district adjacent thereto.

PETITION NECESSARY—Sec. 48. No change shall be made as provided for in the preceding section, unless petitioned for—

First—By a majority of the legal voters of each of the districts affected by the proposed change.

Second—By two-thirds (2-3) of the legal voters living within certain territory, described in the petition, asking that said territory be detached from one district and added to another.

Third—By two-thirds (2-3) of all the legal voters living within certain territory, containing not less than ten (10) families, asking that said territory may be made a new district.

MUST PETITION—For any change in a district boundary or boundaries a petition must be duly made and filed as provided by law. The law does not authorize trustees to consider petitions and make changes at other times than at the April meeting though such meeting may be adjourned not longer than four weeks. Petitions for

changes must be filed with the trustees (the treasurer) at least twenty days prior to the first Monday in April.

WOMEN MAY NOT SIGN—The law does not authorize women to sign such petitions. The legislature clothed women with the right to vote for trustees, directors, members of the boards of education and trustees of the State University, but did not give them the right to sign petitions required by law, nor are they authorized to vote on the question of school sites, bond issues, or the removal of a school house or the question authorizing the board to build. The law defines four ways in which boundary lines of districts may be changed. A petition is the basis for the action of the trustees, and must state what is wanted and the changes to be made. If the law is not fully followed in making and filing a petition the trustees can not have jurisdiction. A mere clerical error may be corrected, but the petition must not be changed after it has been filed. The signers have no control over a petition after it has been filed with the treasurer. A new district must have ten or more families living therein, and no district from which territory is taken must be left with fewer than ten families in the same. In counting the legal voters in a district or territory asking for a change, it is proper to count those who were legal voters the day the petition is filed. In very closely contested cases the name of a voter may be secured to a petition, and prior to the filing of such petition the person may remove from the district, hence in such cases he could not be counted to make the required two-thirds; or should a signer die prior to the date of such filing his name should not be counted to make the required number. Should some of the minors residing in such territory become of age after such petition had been filed they can not be counted with the minority to defeat the petition.

A majority of the legal male voters living in each of two, three or four districts may petition for such districts to be consolidated, or two-thirds of the legal voters living in the entire territory may petition that such territory be made a new district. One male voter living in a given territory desiring to be cut off from one district and attached to another district, has a legal right to make the petition if he is the only male voter in such territory. If there are two such voters, both must petition to give jurisdiction to the trustees. If there are five legal voters in such territory at least four must sign the petition.

TWO BOARDS—If the change sought by petition must be considered by two or more boards of trustees, there must be a petition directed to and filed with each board. Such petition must be in all respects the same, except being directed or addressed to the different boards. Each signer must sign all the petitions. The duplicates required to be filed with directors in different districts affected by such change must be correct copies of the petitions filed, including the names of all signers.

If a person desires to take his name from a petition he must do so in person prior to the time of filing the instrument, for after it has been filed with the treasurer all rights of the petitioners to change or modify the same in any way have ceased.

It is clearly the duty of those interested in the change to see

that copies of the petitions with notice as below are delivered to the directors of the interested districts at least ten days prior to the regular meeting of the school trustees. The person or persons delivering such copies and notices should file with the township treasurer evidence of the delivery and service of such notices together with the date in writing. If a petition should fail to state that the new district will contain not less than ten families resident therein, or if it fails to state that no districts from which territory is taken will be left with less than ten families, then the trustees can not have jurisdiction. Such an omission is fatal.—116 Ill., 493.

FOR NEW DISTRICT—A petition to form a new district including the territory of two or more districts and a part of the territory of other districts is properly treated as a petition to organize a *new district*, and not as one to consolidate districts, or to detach territory from one district and add it to an adjacent district. It is sufficient to give the trustees jurisdiction if the petition is signed by two-thirds of the legal voters residing in the territory of the proposed new district.—155 Ill., 402.

PETITION BY TWO-THIRDS WILL NOT APPLY—A petition signed by two-thirds of the legal voters living within certain territory is not calculated for all purposes, but is sufficient only for the purposes for which the law designates and points out, namely: To authorize the formation of a new district, and to authorize and justify the detachment of territory from one district and the addition of the same to another adjoining district. This form of petition will not justify the consolidation of two or more districts unless the two-thirds of the voters who have signed the petition include at least a majority of the voters in *each* of the entire districts and by two-thirds of the legal voters in the territory forming the *part* of the district involved in the change, or entering into the new district.

PETITION BY TWO-THIRDS FOR NEW DISTRICT.

We, the undersigned, being two-thirds of the legal voters in the territory herein described, petition the trustees of the schools in and for township No....., Range No.... in.....county, to make a school district of this territory, namely [here describe territory fully]. We declare that the said district will not have less than ten (10) families, and that no district from which territory will be taken will be left with less than ten (10) families.

(Names of petitioners.)

If the territory lies in more than one township, the petition must be made and signed in duplicate and filed with each board.

PETITION TO DETACH TERRITORY FROM ONE DISTRICT AND ADD THE SAME TO ANOTHER.

We, the undersigned, being two-thirds of the legal voters in the territory herein described, petition the trustees of schools in and for Township No....., Range No....., in.....county, to detach this territory, namely [describe territory here] from school district No...., in township No...., Range No....., and add said territory to district No...., township No...., Range No..... We declare that no district from which territory shall be taken will be left with less than ten (10) families. ((Petitioners' names.)

NOTE:—If the territory affected by the change lies in two or more townships the petition must be made and addressed to all the boards.

PETITION ADDRESSED TO TWO OR MORE TOWNSHIPS.

..We, the undersigned, being two-thirds of the legal voters in the territory herein described, petition the trustees of township No., Range No., incounty, and the trustees of schools of township No., Range No., in county, to make a new school district of this territory [here describe the territory], (or to detach the same from district No., township No., Range No. and add the same to district No., township No., Range No., as the case may be). And we declare that said district will not have less than ten (10) families resident in it, and that no district from which territory will be taken will be left with less than ten (10) families.

(Signature of voters.

REMARK:—The wording can be changed so as to suit a majority of petitioners in the certain territory. (See other forms.) In case the petition is for detaching territory and adding the same to another district, the clause "We declare that said district will not have less than ten (10) families in it" should be omitted, and so the clause following should be modified if a whole district is included in the change. The declarations as to the number of families are essential, and if omitted, the omission is fatal when the change asked for will admit any of them in the petitions.

PETITION BY MAJORITY.

We, the undersigned, being a majority of the legal voters in district No., in township No., Range No., in county, petition the trustees of schools in and for said township to divide said school district along a line beginning (here describe the line) making two districts thereof, and we declare that each of the new districts will not have less than ten (10) families living in it.

(Names of petitioners.

REMARK:—If the district or territory lies in two or more townships the petitions must be addressed to all the boards of trustees, and must be made and signed in duplicate, so that it may be presented to each board.

This form may be used with the necessary modifications to express the changes desired, when the majority of the legal voters wish to have their district consolidated with another district; or to have a part of their territory attached to another district, or to have a part of their territory together with other territory formed into a new district.

This form of petition can be used by the voters of two or more districts when petitioning for a change, and should begin as follows: "We the undersigned, being a majority of the legal voters in each of these school districts, namely, (here describe the districts).

CERTIFICATE OF DELIVERY OF NOTICE OF PETITION.

To the Trustees of Schools in and for Township No. . . . , Range No. . . . , in County.

I hereby certify that on the . . . day of, 1 . . . , I served clerk (or president) of the board of directors of school district No. . . . , in township No. . . . , Range No. . . . in county, with a copy of a petition (describe petition) and with the notice in regard to the same as the law directs.

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ONE THOUSAND INHABITANTS—Sec. 49. In school districts having a population of not less than one thousand inhabitants, whether acting under the general school law or organized and acting under a special charter, desiring a change of boundaries, the question of such change may be submitted to the trustees by a vote of the people, instead of by the petition provided for in the preceding section; and when petitioned so to do by twenty-five legal voters of the district, the school board of the district shall submit the question of the change desired to the voters of said district, at a special election called for that purpose, and held at least thirty days prior to the regular April meeting of trustees. If a majority of the votes cast at any election shall be in favor of the change proposed, then, due return of the election having been made to the township treasurer, the township trustees shall consider and take action the same as if petitioned therefor by a majority of the legal voters of the district: *Provided*, that no question of change of boundaries shall be submitted to a vote of the school district more than once in any year. (As amended by act approved June 18, 1891.)

This section provides for another way by which a district boundary may be changed in certain cases, yet the legal voters have the right to seek a change by petition if they so desire. A circuit court has so held.

DATE OF FILING—Sec. 50. No petition shall be acted upon by the board of trustees unless such petition shall have been filed with the clerk of the said board of trustees at least twenty days before the regular meeting in April, nor unless a copy of the petition, together with a notice in writing, signed by one or more of the petitioners, or some one of them, at least ten days before the date at which the petition is to be considered, to the president or clerk of the board of directors of each district whose boundaries will be changed if the petition is granted.

Which notice may be in the following form to-wit:

The directors in district No. . . , in township No. . . . , Range No. . . of the . . . principal meridian, will take notice that the undersigned and others have made and filed with the board of trustees of said

township their petition, a copy of which is herewith handed to you.

Signed.....

TWO BOARDS ACT—Sec. 51. At said April meeting by the concurrent action of the several boards of trustees of the townships in which the district or districts affected lie, each board being petitioned as provided for in section 48 of this article, the same changes may be made in the boundaries both of the districts which lie in separate townships, but adjacent to each other, and of districts formed of parts of two or more townships, as are permitted to be made in districts which lie wholly in one township.

ADJOURNMENT—Sec. 52. When, at the regular meeting of the trustees in April, any petition shall come before the trustees, asking for any change in boundaries, it shall be the duty of the trustees to ascertain if the foregoing provisions have been strictly complied with; and if it shall appear that they, or either of them, have not been complied with, then, in such case, the board shall adjourn for not longer than four weeks, in order that the foregoing provisions may be complied with, but there shall be but one adjournment for such purpose.

PETITION CONSIDERED—Sec. 53. If, on the day of the regular meeting, or, in case of an adjournment, at the adjourned meeting, it shall appear that such provisions have been complied with, then the trustees shall consider the petition, and shall also hear any legal voters living in the district or districts that will be affected by the change if made, who may appear before them to oppose the petition, they shall grant or refuse the prayer of the petitioners without unreasonable delay. After the trustees shall consider the petition, no objection shall be thereafter raised as to its form, and their action shall be *prima facie* evidence that all the formal requirements have been complied with.

REMARK:—"Boards of trustees are not required to incorporate into the record the evidence upon which they predicate the order allowing or rejecting a petition, and we are aware of no principle which would require them to do so."—146 Ill., 596.

APPEAL—Sec. 54. The petitioners, or the legal voters who have appeared before the trustees at the meeting when the petition was considered, and opposed the same, shall have the right of appeal to the county superintendent of schools: *Provided*, that the party appealing files with the clerk of the trustees a written notice of appeal within ten days after the final action upon the petition by the trustees, which notice may be as follows, to-wit:

To the trustees of schools, township No..... range No..... of.....county, Illinois:

You are hereby notified that the undersigned will appeal from

your decision, made on theday ofA. D. granting (or refusing) the prayer of the petition in regard to (here give substance of the petition concerned) to the county superintendent of schools of.....county, Illinois, as provided by law.

Signed.....

HEARING BY SUPERINTENDENT—Sec. 55. When an appeal is taken from the action of the trustees to the county superintendent, the clerk of the trustees shall, within five days after the written notice of the appeal has been filed with him by the appellants, transmit all the papers in the case, with a transcript of the records of the trustees, showing their action thereon to the county superintendent; and, in case of an appeal, the township treasurer shall be required to take no further action in the matter, except upon the order of the county superintendent, whose duty it shall be to investigate the case upon such appeal; and if in his opinion, the change asked is for the best interest of the district or districts concerned, he shall make such change or changes, but if he considers the proposed change unadvisable, he shall refuse to make it, and shall reverse, if need be, the action of the trustees, and shall give the clerk, from which he received the paper, immediate notice of his decision; and his action shall be final and binding. If the changes asked for by the petitioners shall be made by the county superintendent, he shall notify, in writing, the clerk by whom the papers in the case were transmitted to him, of his action, and the clerk shall thereupon make a record of the same, and shall, within ten days thereafter, make a copy of the same, and a map of the township, showing the districts, and an accurate list of the taxpayers of the newly arranged districts, and deliver them to the county clerk for filing and record by him, the same as if the changes had been ordered by the trustees.

QUESTION NOT RAISED—Legally the question can not be raised as to the right of a trustee to act on a petition on which his name appears as a signer, neither can any legal objection be raised against his right to act upon a petition because he is a resident of one of the interested districts.

If a petition is, properly before a board of trustees, a writ of *mandamus* will compel them to consider it; but they are free to use their discretion and best judgment as to granting or rejecting it. In either case there must be no modification, but it must be acted upon as made by the petitioners, except as to some clerical error.—61 Ia., 632; 7 Ill., App. (Brad.) 222; 65 Ia., 347.

APPEAL TO COUNTY SUPERINTENDENT—In appealing from the action of the trustees the petitioners or any of them have a right to appeal from the action of any or all the boards and so with the legal voters, provided, they appeared before the trustees and made objections, but if they failed to appear at the time of the meeting and make objection, then they can not appeal. All notices for appeals must be

made in writing and filed with the treasurer of the board from which the appeal is taken within ten days after the trustees have acted.

NOT TRANSMITTED—Should the township treasurer fail to transmit within five days, the papers and abstracts in the case to the county superintendent, such failure will not defeat the appeal, but it will make the treasurer liable to a fine not less than five dollars, nor more than fifty dollars.

In an appeal to the county superintendent, if the appeal has been granted to some person or persons not having the right to appeal, or in accordance with the law, then he shall dismiss the case and notify the township treasurer or treasurers, that the case stands as acted upon and determined by the trustees. If he finds that all acts and doings in the case are regular and that he has jurisdiction, it is his duty to consider the appeals in his own way, using his best judgment and discretion to decide the matter upon the merits, and his action is final so far as the school law makes any provisions. He should make a record of his acts and doings in the case and send a copy of the same to the township treasurer or treasurers. In considering the case, if he should find any fatal irregularities in the proceedings of the trustees he should dismiss the appeal, refuse the petition and notify the trustees of the fact. The statement that the county superintendent's action is final does not mean that the case can not be taken into a court having competent jurisdiction.—7 Ill., App. (7 Brad.) 222; 60 Wis., 395; 168 Ill., 127.

OBJECTIONS—The law says that "after the trustees shall consider the petition no objections can be raised as to its form, and their action shall be *prima facie* evidence that all the foregoing provisions have been complied with." If a petition contains matter that is superfluous and unessential to the validity, objection can not be raised, but the presumption that the trustees has jurisdiction has been created, which may be overcome by sufficient proof only.

The county superintendent in considering an appeal in such cases has the right to review and consider all essential matters connected with the appeal and determine and decide as in his judgment is best and proper. The whole matter may be reviewed by the court on a writ of *certiorari*, but the action must be taken within reasonable time, but the court will not disturb acts that are clearly within the discretion of the officers.—63 Ill., 353; 65 Ill., 247; 88 Ill., 100; 88 Ill., 26.

NOT TO MEET JOINTLY—Where two or more boards of trustees are petitioned for a change or changes, such boards are not required to meet jointly. The boards should act at the usual meeting places in their respective townships. Any change petitioned for must be approved or disapproved by each board acting separately.

"The several boards of trustees of different townships, in forming a new district by detaching territory from two or more districts, must act in conformity with section 51, article 3 of the school law 1889. The different boards must act concurrently upon the petition and not jointly. There is no authority of law given to call or organize joint meetings of the trustees of schools of the several townships, or for the transaction of business by such a body."—144 Ill., 332.

In such cases, if one board adjourns to allow some defect to be cured as provided in section 52, the ten days in which to appeal from the action of any of the boards would date from the date on which the matter was considered by the last board. Boards of trustees can take but one adjournment for the consideration of petitions for changes in district boundaries, neither can they come together and consider such a petition before the first Monday in April. When the trustees are asked by petition to change boundary lines, they are often confronted with a remonstrance, and frequently the names of some of those on the petition appear on the remonstrance. There is no law giving a remonstrance any legal weight—hence the fact that some of the petitioners have signed the remonstrance does not in any way legally affect the petition nor in the least weigh against their signatures on the petition.

APPEAL TO TWO COUNTIES—Sec. 56. Where territory affected by a proposed change of district boundaries is divided by a county line or lines, the appeal may be taken to county supt. of any one of the counties in which said territory is partly located; and upon any appeal being taken in any such case, the county superintendent of schools to whom such appeal is taken, shall forthwith, give notice to the county superintendent or superintendents of schools of the other county or counties, of the pendency of such appeal, and of the time and place when and where it will be heard; and the county superintendents of schools of the counties in which the said territory is located, shall meet together at such time and place, and together hear and determine said appeal. In case the said county superintendents shall be unable to arrive at an agreement, then the county judge of the county where such appeal is pending shall be called, and shall constitute one of the board of appeal, and thereupon the appeal shall be heard and determined by them. And the county superintendent of schools, to whom such appeal is taken, shall at once notify, in writing, the clerk by whom the papers in the case were transmitted to him of the action taken on such appeal, as hereinafter provided.

MAP—Sec. 57. Whenever change in boundaries is made by the trustees of schools, if no appeal is taken to the county superintendent, the clerk of the trustees shall make a complete copy of the record of the action of the trustees, which copy shall be certified by the president of the trustees and the clerk who shall file the same, together with a map of the township, showing the districts, and an accurate list of the tax-payers of the newly arranged districts, with the county clerk for record within twenty days of the action of the trustees.

SCHOOL TOWNSHIP.

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

VALUE OF RECORDS—The importance of trustees making their records clear and accurate has been mentioned in other parts of these discussions, and the above section plainly states what their duties are in connection with the matter. While the failure to do all these things will not defeat any action already taken, yet such neglect causes much annoyance and makes them liable to fine. 10 Ill., App. (10 Brad.) 343.

VACANCY—A director living in territory that is detached from one district and added to another district, vacates his office, and it is the duty of the directors of the district from which the territory was taken to order an election to fill such vacancy.

BOND DEBT.—Sec. 58. In case any territory shall be set off from any district that has a bonded debt, the change not being petitioned for by a majority of the legal voters of said district, such original district shall remain liable for the payment of such bonded debt as if not divided. The directors of the original district having such bonded debt and of the district into which the territory taken from such original district has been incorporated or formed, shall constitute a joint board for the purpose of determining and certifying, and they shall determine and certify to the county clerk the amount of tax required yearly for the purpose of paying the interest and principal of such bonded debt which tax shall be extended by the

county clerk against all property embraced within such original district as if it had not been divided.

WHEN LIABILITY—It seems from the reading of this section and other parts of the law, that if part of a district, with a bonded debt, is by petition of a minority of the legal male voters of such district cut off and attached to another district, the liability for the proportionate part of such debt does not follow, but if cut off by a petition of two-thirds of the legal male voters in the territory so cut off, then such territory remains liable for its proportionate part of the indebtedness.

ELECTION. Sec 59. When the trustees of schools shall organize a new district, as hereinbefore provided for, it shall be the duty of the clerk of the board of trustees, if no appeal is taken to the county superintendent, to order, within fifteen days after the action of the trustees, an election, to be held at some convenient time and place, within the boundaries of such newly organized district, for the election of three school directors, notice being given by the township treasurer, who shall post up at least three notices of such election in at least three prominent places in said district, at least ten days prior to the time appointed for holding such election, which notice shall specify the place where such election is to be held, the time for opening and closing the polls, and the object of said election, which notice may be in the following form, to-wit:

ELECTION NOTICE.

Public notice is hereby given that on the.....day of.....A. D.....an election will be held at.....for the purpose of electing three school directors for the new district known as district No....., in township No....., range No....., of the.....P. M., and close at.....o'clock M.

By order of the board of trustees of said township.

Signed.....

Township Treasurer.

NEW DISTRICT RIGHTS—New districts formed of an old one or old ones should elect new boards of directors. If two or more districts form a new district, and though the new district adopts the number of one of the old districts, a new board of directors must be elected. Where part of the district is detached and added to another district, the legal voters, residing in the territory recently so attached, have the right to vote at an election for school director, location of a site, etc., in the district to which they were recently attached, though such change has been within thirty days. If an appeal has been taken from the action of the board of school trustees, making such changes and the appeal is yet pending, then they retain their right to vote at such elections. In such cases they have the right to send their children to the school while the appeal is under hearing.

If two or more districts are consolidated into one district, such new district is entitled to all the property and funds belonging to the districts entering into the consolidation. 116 Ill., 493.

ELECTION JUDGES—Sec. 60. At the time appointed for opening the polls for said election, it shall be the duty of the legal voters present, five of whom shall constitute a quorum, to appoint three of their number, two of whom shall act as judges, and one as clerk of said election; and the election in all other respects shall be conducted as other elections for the election of school directors.

ORGANIZATION—Sec. 61. Within ten days after the election it shall be the duty of the directors, elected at such election, to meet at some convenient time and place previously agreed upon by said directors, and organize as a district board by appointing one of their number president, and another one of their number clerk of said board, as in other cases of the election of school directors. At the first meeting of the directors, they shall draw lots for their respective terms of office for one, two or three years, each of which shall be considered a fractional term, ending at each annual meeting according to the term drawn.

ORDER ELECTION—Sec. 62. In case a new district is organized by the action of the county superintendent, the said clerk of the board of trustees shall, within five days after he has received notice of the action of the county superintendent on an appeal, order an election of directors, in the new district, the same as if the change had been made by the board of trustees, and such election shall be held in the same manner as the election provided for where the trustees have formed such new district.

DISTRIBUTE TAXES.—Sec. 63. Whenever a new district has been formed by the trustees, or by the county superintendent, or county superintendents, from a part of a district or from parts of two or more districts, the trustees of the township or townships concerned shall proceed forthwith to make a distribution of tax funds, or other funds which are in the hands of the treasurer, or to which the district may, at the time of such division, be entitled; so that both the old and the new districts shall receive parts of such funds, in proportion to the amount of taxes collected next preceding such division from the taxable property in the territory composing the several districts. If the new district be composed of parts of two or more districts, the trustees shall make distribution of said funds between the new district and the old districts, respectively, so that the new district shall receive a distribution of the funds of each of the old districts, in the proportion which the amount of taxes collected from the property in the territory of the

new district bears to the whole taxes collected, next before the division, in the old district; and the town treasurer shall forthwith place the sum so distributed to the credit of the respective districts, and shall immediately place the proportion of the funds to which said new district may be entitled to its credit on his books, and the funds on hand shall be subject at once to the order of the directors of the new district, and those not on hand as soon as collected.

DIVISION OF LAND—Sec. 64. The trustees of the township or townships concerned shall, at the time of the creation of the new district, or within the period of thirty days thereafter, proceed to the appointment of three appraisers, who shall not be citizens of the township or townships interested. It shall be the duty of said appraisers, within thirty days after their appointment, to appraise the school property, both real and personal, of the district or districts interested, at their fair cash value. Within thirty days after such appraisement, the trustee or trustees of the township or townships concerned shall proceed to charge the property to the district in which it may be found, and to credit the other district interested therein with its proportion of such valuation: *Provided*, that the *bona fide* debts, if any, of the old district, shall first be deducted and the balance charged and credited as aforesaid and the trustees shall direct the treasurer to place to the credit of the district not retaining said property, its proportion of the value of said property, and the funds then on hand, or subsequently to accrue, belonging to such district to which such property is charged.

COMPLETE BUSINESS—It is the intention of the statute to complete the transactions connected with the division of school districts as early as it is possible; and to this end the decision of the appraisers is final, unless there is fraud, and the adjustment of the accounts should be made without delay. The matter is with the township, trustees and the treasurer entirely, who must bring about a final adjustment. The amount due from one district to another must be paid out of the first funds coming into the hands of the treasurer for the debtor district whether it be from distribution or special taxes. The debtor district well knows the condition of affairs if there are no funds with which to pay the debts of the district, and it is the duty of the school board to make provisions for such liabilities. For a failure on the part of the trustees to divide funds and property as enjoined by law, the trustees are heavily liable both individually and jointly, and those districts that have failed to obtain their just and rightful share of the property are entitled to redress under the provisions of the statute.

TRUSTEES JOINTLY LIABLE—Sec. 65. If the trustees shall fail to observe the provisions of sections 63 and 64, in reference to the distribution of funds and property, they shall be individually

and jointly liable to the district interested, in an action on the case, to the full amount of the damages sustained by the district that is aggrieved. Where trustees have heretofore failed to make distribution of property to districts, as provided in said sections 63 and 64 of this article, the district interested in the making of such distribution may, by its directors, request the trustees, in writing, to proceed to make such distribution; and said trustees shall proceed to make such distribution in the manner prescribed, and shall be liable, as herein stated, for a neglect or failure to do so.

CLERK LIABLE—Sec. 66. The clerk of any board of trustees who shall fail, neglect, or refuse to perform the duties imposed upon him by this article of this act, or any of them, within the time and in the manner prescribed, shall, for each offense, forfeit not less than ten dollars (\$10), nor more than twenty-five dollars (\$25) of his pay as clerk of the board of trustees and township treasurer, which forfeiture shall be enforced by the trustees.

NO SCHOOL FOR TWO YEARS—Sec. 67. If any school district shall, for two consecutive years, fail to maintain a public school, as required by law to do, it shall be the duty of the trustees of schools of the township, or townships, in which such district lies, to attach the territory of such district to one or more adjoining school districts to divide the property of said district between the districts to which its territory is added, in the manner hereinbefore provided for the division of property in the case a new district is organized from a part of another district, and the action of the trustees in such case shall be final and binding. And the clerk of the trustees in such case shall file a copy of the record of the same, together with the map and list of tax-payers with the county clerk as in other cases of change of district boundaries.

UNION DISTRICT DISSOLVED—Sec. 68. The majority of legal voters of a district lying in two or more townships may secure the dissolution of said district by petitioning the boards of trustees of said townships, at their regular meeting in April, that each will add the territory belonging to said district, in its township, to one or more adjacent districts. Upon receipt of such petition, or the returns of the election (in districts containing one thousand or more inhabitants) the several boards of trustees shall make such disposition of the territory of said district as lies in its township, and they shall jointly make such division of property of said district between the districts to which its territory is attached, as is hereinbefore provided in case of the organization of a new district from a part of another district. The action of the trustees, in accordance with such petition or election, shall be final and bind-

ing; and the clerks of the several boards of trustees, in such case, shall file a copy of the record of the same, together with the map and lists of tax-payers, with the county clerk, as in other cases of change of district boundaries.

TO DISSOLVE UNION DISTRICT—A petition to dissolve a union district must be signed by a majority of the legal male voters residing in the whole territory and must be filed with each board of trustees in whose township any part of such union district lies. If the concurrent action of the boards of trustees dissolves the district, it is the duty of each board to dispose of the territory lying in their respective townships as they may deem to the best interest of the people. In such cases trustees are to use their discretion in the disposition of the territory as a petition asking that the territory be disposed of in any particular way has no legal standing at this stage of the proceedings.

SUCCESSORS—Sec. 69. The trustees of schools, elected as provided for in this article, shall be successors to the trustees of school lands, appointed by the county commissioners' court, and the trustees of schools elected in townships under the provisions of "An act making provisions for organizing and maintaining common schools," approved February 26, 1841, and "An act to establish and maintain common schools," approved March 1, 1847, and "An act to establish and maintain a system of free schools," approved April 1, 1872. All rights of property, and rights and causes of action, existing or vested in the trustees of school lands, or the trustees of schools appointed or elected as aforesaid, for the use of the inhabitants of the township, or any part of them, shall vest in the trustees of schools, as successors, in as full and complete a manner as was vested in the trustees of school lands, or the trustees of schools appointed and elected, as aforesaid.

DISSOLUTION OF DISTRICT—In case a district is dissolved, or discontinued by petition and the territory is attached to two or more districts by the trustees, while the law does not say how the trustees shall dispose of the property of such dissolved district, yet the rule of reason would give the real estate in such cases to the district to which the territory in which the real estate is located is attached, and after paying all debts of the discontinued district it would be lawful for the trustees to apportion the remaining property and funds to the district to which the territory had been added as in their judgment may seem just.

FUNDS DIVIDED—When a new district is formed by the trustees or by the county superintendent, all funds on hand must be distributed or apportioned to the districts interested. If any funds are uncollected, such funds shall be divided and credited to the proper districts as soon as paid in. In such division of the school property, all houses, apparatus and sites must be appraised and the value apportioned to the districts.

When making a division of funds and the appraised value of property, the trustees will be governed by the assessment roll of the property of the districts interested as shown by the assessment for the previous year (the last roll) and make the apportionment in the ratio which the total assessed value of each district bears to the total assessed value of the districts that are parties to the change.

A new district can not legally waive its right to share in the division of the property. The law provides how the matter shall be adjusted, and does not give authority to any person, board or corporation to make a waiver. Such divisions should be made within three months after the formation of the new district. Trustees should see to it that the apportionment is made sooner if possible. If trustees neglect or refuse to make the apportionment they are individually liable. In the formation of new districts or the abolishing of old ones, proper regard must be had for existing contracts with teachers, etc. In many instances it may be well in such cases to arrange for acts or parts of the acts to take effect at some future time, i. e., if a school is in progress, at the close of the school.

SCHOOL CLOSED BY CHANGE—In changing the boundary lines of districts, if a school is closed thereby, the property of such district is liable for the teacher's pay to the end of his contract, and the board that contracted with him remains liable to him for his salary. In adjusting and dividing money and property among the new districts so formed it is right and proper to first set aside a sufficient amount of the funds to meet all existing contracts except bonded indebtedness and apportion the remainder.

NO DIVISION—If a portion of territory is cut off from one district and added to another district, then no division of the property follows. The payment of the amount due from one district to another on apportionment may be enforced by law. 16 Ill., App., 651; 73 Ill., 249; 4 Neb., 265; 68 Ill., 154; 63 Wis., 337.

ANNEXATION TO MUNICIPALITY—In the annexation of territory to a municipality, there is no necessity of formulating a code of municipal laws for the government of the territory annexed. By becoming a part of the municipality it is, *ipso facto*, brought under and made subject to all the laws by which the municipality itself is governed.

The statute already in force having committed all the public schools of the city to the control and management of the city board of education, the instant the territory became a part of the city all public schools within the annexed territory fell under the control and jurisdiction of such board—not by force of any express provision of the annexation law, but by force of the existing statute which had committed all schools in the city to the jurisdiction of said board."

The annexation of towns, cities and villages to contiguous cities, does not divest any vested rights in the school property, but expressly preserves all trusts with which the school fund and other

property was impressed while held by the district, township and their officers, the only change effected being a change of trustee or custodian. To such a change there is no constitutional objection." 133 Ill., 122.

HISTORY OF LEGISLATION.—In Illinois there are what may be styled two classes of permanent public school funds which consists either of moneys received from the general government or of lands from the same source and the proceeds of the sale of these lands as have been made. The funds of another character are moneys which the State has by law set apart for the use of the schools. The term "permanent fund" is applied because the income only may be used or expended. The funds are designated:

- (a) The Township Fund.
- (a) The Seminary Fund.
- (a) The School Fund Proper.
- (a) The College Fund.
- (a) The Illinois Industrial University Fund.
- (b) The Surplus Revenue Fund.
- (b) The County Fund.

Space will not admit a full and detailed account of these funds. The legislation, concerning them, embraces many acts, passed at various dates, since the adoption of the constitution. For an extended history of these funds and the legislation relating thereto the reader is directed to the Illinois Reports (Slade) 1880-82, pp. 120-143, and the Report of the Commissioner of Education, 1892-93, II. pp. 1268-1288.

ARTICLE IV.

TOWNSHIP TREASURER.

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| <p>§ 1. Bond; form of bond.</p> <p>§ 2. Treasurer's accounts; record of notes and bonds; subject to inspection.</p> <p>§ 3. Terms of loans.</p> <p>§ 4. Securities to run to board of trustees.</p> <p>§ 5. Surplus district funds may be loaned.</p> <p>§ 6. Statement of loans to be delivered to county superintendent.</p> <p>§ 7. Form and release of mortgage.</p> <p>§ 8. Action on mortgage; insurance policies.</p> <p>§ 9. Additional security.</p> <p>§ 10. Preference given to debts due to school fund.</p> <p>§ 11. Default in payment; penalty; action to recover interest.</p> <p>12. Manner of bringing suits.</p> | <p>§ 13. Treasurer shall keep money, books and papers, and keep funds at interest.</p> <p>§ 14. Send annual statement to trustees.</p> <p>§ 15. Annual exhibit.</p> <p>§ 16. Statement to districts; exhibit to be posted.</p> <p>§ 17. Penalty for failure to perform requirements of the preceding sections.</p> <p>§ 18. Unpaid orders of teachers to draw interest.</p> <p>§ 19. Additional duties defined.</p> <p>§ 20. Treasurer liable for failure to perform his duties, but not liable when acting under orders of board.</p> <p>§ 21. Bonds, securities, etc., to be turned over to successor; penalty and judgment.</p> <p>§ 22. Compensation of the treasurer.</p> |
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BOND—Section 1. The township treasurer appointed by the board of trustees shall, before entering upon their duties, execute a bond with two or more freeholders, who shall not be members of the board, as securities, payable to the board of trustees of the township for which he is appointed treasurer, with a sufficient penalty to cover all liabilities which may be incurred, conditioned faithfully to perform all the duties of the township treasurer in township No....., range No....., incounty according to law; which bond shall be approved by at least a majority of the board, and shall be delivered by one of the trustees to the county superintendent of the proper county. And in all cases where such treasurer aforesaid is to have the custody of all bonds, mortgages, moneys and effects denominated principal, and belonging to the township for which he is appointed treasurer, the penalty of such treasurer's bonds shall be twice the amount of all bonds, notes, mortgages, moneys and effects; and shall provide for the faithful accounting for, and turning over, of all such bonds, notes, mortgages, moneys and effects as shall come into his hands while he may act as such treasurer, under such appointment, to his successor, when appointed and qualified, as herein provided, by giving bond. The penalty of said bond shall be increased from time to time, as the increase of the amount of notes, bonds, mortgages and effects may require, and whenever, in the judgment of the trustees or county superintendent, the security is insufficient. Any and every township treasurer appointed subsequent to the first, as

herein provided, shall execute said bond with security, as is required of the first treasurer.

The bond required in this section shall be in the following form, viz.:

State of Illinois,County, ss.

Know all men by these presents, that we, A. B., C. D. and E. F., are held and firmly bound, jointly and severally, unto the board of trustees of township....., range....., in said county, in the penal sum of.....dollars, for the payment of which we bind ourselves, our heirs, executors and administrators firmly by these presents.

In withness whereof we have hereunto set our hands and seals this.....day of....., A. D. The condition of the above obligation is such that if the above bounden A. B., township treasurer of township, range, in the county aforesaid, shall faithfully discharge the duties of said office, according to the laws which are now or may hereafter be in force, and shall deliver to his successor in office, after such successor, shall have fully qualified by giving bond as provided by law, all moneys, books, papers, securities and property which shall come into his hands or control, as such township treasurer, from the date of this bond up to the time that his successor shall have duly qualified as township treasurer, by giving such bond as shall be required by law, then this obligation to be void; otherwise to remain in full force and virtue.

Approved and accepted by:

G. H.,

A. B., (Seal.)

I. J.,

C. D., (Seal.)

K. L., Trustees.

E. F. (Seal.)

BOND FORM—It is the duty of the trustees and the county superintendent to see that the treasurer's bond is in the form as directed by the law. The treasurer and the securities must acknowledge such bond before some officer authorized to take acknowledgements. The bond of a township treasurer should be fixed at double the amount of moneys, mortgages, notes and effects which may come into his hands as treasurer. The present law requires that such bond have attached a revenue stamp of fifty cents. If a treasurer is reappointed by the trustees, he must give a new bond.

Where a township is divided by a county line the treasurer is not required to give but one bond, and it should be filed with the county superintendent of the county in which the school section, or the greater part of such section lies. The county superintendent receiving and filing such bond shall certify such fact to the county superintendent of the other county, and such certificate is sufficient evidence that the bond of the treasurer has been filed as the law requires. 11 Ill App. (11 Brad.), 280.

ACCOUNTS—Sec. 2. Every township treasurer shall provide himself with two well bound books, the one shall be called a cash book, the other a loan book. He shall charge himself in the

cash book with all moneys received, stating the charge, when, from whom, and on what account received, and credit himself with all moneys paid or loaned, stating the amount loaned, the date of the loan, the rate of interest, the time when payable, the name of the securities; or, if real estate to be taken, a description of the same.

He shall also enter, in separate accounts, moneys received and moneys paid out, charging the first to debit account, and crediting the latter as follows, to-wit:

First—The principal of the township fund, when paid in and when paid out.

Second—The interest of the township fund, when received and when paid out.

Third—The common school fund and other funds, when received from the county superintendent and when paid out.

Fourth—The taxes received from the county or town collector, for what district received, and when and what purpose paid out.

Fifth—Donations received.

Sixth—Moneys coming from all other sources; and in all cases entering the date when received, and when paid out. And he shall also arrange and keep his books and accounts in such other manner as may be directed by the State or county superintendent or the board of trustees. He shall also provide a book, to be called a journal, in which he shall record, fully and at length, the acts and proceedings of the board, their orders, by-laws and resolutions. And he shall also provide a book, to be called a record, in which he shall enter a brief description of all notes or bonds belonging to the township, and upon the opposite page he shall note down when paid, or any remarks to show where or in what condition it is, as in the following form, viz.:

Maker's Name.	Date of Note.	When Due.	Amount.	Remarks.
A. B., C. D., E. F.	January 1, 1.....	January 1, 1.....	\$50 00	

All the books and accounts of the treasurer shall at all times be subject to the inspection of the trustees, directors or other person authorized by this act, or by any committee appointed by the voters of the township, at the annual election of trustees, to examine the same.

LIABILITY ARISES—The liability of the treasurer arises out of his official bond. He has made by the bond an express contract with the trustees that he will safely keep the moneys which shall come into his hands. It is so "nominated in the bond," when that is read in the light of the statute prescribing his duties, and considerations of public policy forbid that he should be permitted to

avail of any extraneous facts outside of the condition of the bond. The treasurer well knew and understood the contract he had entered into, and the extent of the obligation he had voluntarily incurred, and he has obtained all he contracted for—the possession of the office with the emoluments attached to it.

We think there is no principle on which the defense can be sustained, the contract being absolute, without any condition, express or implied. * * * * * Public policy demands that public depositories of public money should be held to the most rigid accountability, within the scope and terms of their covenants.

They know well on assuming their positions, the hazards to which they are exposed, and they voluntarily assume the risk, and are paid for doing so. Township treasurers, under our statute, are made insurers of the funds coming to their possession, and nothing should or can excuse them but the act of God or of the public enemy. There would be no surety to the public were this not the rule. * * * * * Misfortune, negligence or other unavoidable accident, or by a felony committed by another, furnishes no defence to the action on the bond. 30 Ill., 99; 88 Ill., 181.

NO RELIEF—There is no way open by which a township school treasurer may escape his responsibility for funds belonging to the schools. The law is that he must at all times respond in money or ample securities for the whole amount of funds received by him, less the sums legally paid out. The courts hold that trustees can not legally release a township treasurer, or the securities on his bond from any liability. Where judgment is obtained against a treasurer and his bondsmen, if no property is found belonging to the treasurer out of which to make the debt, recourse is against the property of the securities. Suit to recover on a treasurer's bond must be brought in the corporate name of the trustees, in a circuit or other court having jurisdiction. 30 Ill., 99.

LOANS—Sec. 3. Township treasurers shall loan, upon the following conditions, all moneys which shall come into their hands by virtue of their office, except such as may be subject to distribution. The rate of interest shall not be less than five (5) per cent., nor more than seven (7) per cent. per annum, payable annually, the rate of interest to be determined by a majority of the township trustees at any regular or special meeting of their board. No loans shall be made for less than six (6) months, nor more than five (5) years. For all sums not exceeding two hundred dollars (\$200) loaned for not more than one year, two (2) responsible sureties shall be given; for all sums over two hundred dollars (\$200), and for all loans for more than one (1) year, security shall be given by mortgage on real estate unincumbered, in value forty per cent. more than the amount loaned, with a condition that in case additional security shall be at any time required, the same shall be given to the satisfaction of the board of trustees for the time being: *Provided*, that nothing herein shall prevent the loaning of town-

ship funds to boards of school directors, taking bonds therefor, as provided in section 1, article IX, of this act.

As amended April 24, 1899. In force July 1, 1899.

LOANING TOWNSHIP FUNDS.—It is the duty of a township treasurer to fully satisfy himself as to the title when making a loan on real estate, and that the mortgage is the first lien. According to the statute of limitations a mortgage remains a lien for a period of ten years after the loan matures. 24 Ill., App. 231.

Township treasurers and boards of trustees are required to keep the funds of the township loaned, and for the best interest of the townships it is generally better to make loans on real estate, or district bonds on time from three to five years.

DIFFERENT FUNDS.—As now provided by law the township school treasurer has charge of and must keep accounts with three different and separate funds which are:

The Permanent or Principal of the Township Fund.

The Distributable Fund.

The District Funds.

The treasurer should keep two accounts with the Township Fund. One of which should be an account of the loans, the other should be a cash account which should show all receipts, and the loans made from the fund.

The account with the Distributable Fund should show all receipts from whatever source received, for the purpose of distribution, and to what districts distributed. The treasurer's salary and the incidental expenses of the trustees should be paid from this fund before the distribution is made.

The treasurer should keep an account with each district or parts of districts in his township, showing definitely all money received, of whom received and on what account; and to whom paid and on what account. The law allows township treasurers to loan any district fund not needed for school purposes, on the written order of the directors, but he must use his own judgment and discretion in making the loan, as he and his bond stand equally liable for any loss of district funds, or for the loss of any part of the township fund. The directors are allowed to authorize him to loan district funds, but he, not they, is to pass upon the security.

The rate of interest as provided now shall not be more than seven per cent. nor less than five per cent. If a treasurer loans money for less than seven per cent. he should have an order of the trustees for such action. The law authorizes the treasurer to loan on personal security to one person a sum not greater than two hundred (\$200.00) dollars with at least two securities. Personal security loans must not be made for more than one year, and should the borrower wish to keep the money longer he must execute a new note with such security as will be satisfactory to the treasurer. It is not enough that the trustees may express themselves as satisfied with such security. The treasurer has undertaken to safely keep the funds, and for his security, he is the one that must be satisfied before a loan is made. 24 Ill., App. (Smith) 231.

Trustees are not allowed to borrow the funds of their township,

neither can a trustee legally sign a note as security for such fund. A township treasurer can not borrow the funds belonging to the schools of his own township. 19 Ill., 83; 101 Ind., 532.

NOTES, BONDS, ETC., PAYABLE TO TRUSTEES.—Sec. 4. Notes, bonds, mortgages and other securities taken for money or other property due, or to become due, to the board of trustees for the township, shall be payable to the said board by their corporate name; and in such name, suits, actions and complaints, and every description of legal proceedings may be had for the recovery of money, the breach of contracts and for every legal liability which may at any time arise or exist, or upon which a right of action shall accrue to the use of such corporation: *Provided, however,* that notes, bonds, mortgages and other securities in which the name of the county superintendent, or of the trustees of schools are inserted, shall be valid to all intents and purposes, and suits shall be brought in the name of the board of trustees as aforesaid. The wife of the mortgagor, (if he is married) shall join in the mortgage given to secure the payment of money loaned by virtue of the provisions of this act.

SURPLUS.—Sec. 5. Whenever there is a surplus fund in the treasurer's hands belonging to any school district, the treasurer may loan the same for the use and benefit of such district, upon the written request of the directors of said district and not otherwise; and all such loans shall be on the same conditions as are prescribed in this article for the loaning of township funds.

HOW LOAN FUNDS.—The statute defines how school funds shall be loaned by the treasurer and states the rates of interest, the kinds of security he shall take, such as district bonds, mortgages and personal security, and should the treasurer make loans that are not in accordance with the law, he is at once liable on his bond. 78 Ill., 22; 5 Gilman 528; 24 Ill., App. 23; 50 Miss., 403.

STATEMENT.—Sec. 6. The township treasurer shall, on or before the 30th day of June, annually, prepare and deliver to the county superintendent of his county, a statement, verified by his affidavit, showing the exact condition of the township funds. Said statement shall contain a description of the securities, bonds, mortgages and notes belonging to the township, giving names of securities, dates, amount of loans, rate of interest, when due, and all data by which a full understanding of the condition of the funds may be obtained. The county superintendent shall preserve such statement for the use of the township.

MORTGAGES.—Sec. 7. Mortgages to secure the payment of money loaned under the provisions of this act, may be in the following form, viz.:

I, A. B., of the county of, and State of, do hereby grant, convey and transfer to the trustees of schools of township Range No., in the county of, and State of Illinois, for the use of the inhabitants of said township, the following described real estate, to-wit: (Here insert premises), which real estate I declare to be in mortgage for the payment of dollars loaned to me and for the payment of all interest that may accrue thereon to be computed at the rate of per cent. per annum until paid. And I do hereby covenant to pay the said sum of money in years from the date hereof, and to pay the interest on the same annually, at the rate aforesaid. I further covenant that I have a good and valid title to said estate, and that the same is free from all incumbrance, and that I will pay all taxes and assessments which may be levied on said estate, and that I will give any additional security that may at any time be required in writing by said board of trustees; and if said estate be sold to pay said debt, or any part thereof, or for any failure or refusal to comply with or perform the conditions of covenant herein contained, I will deliver immediate possession of the premises. And it is further agreed, by and between parties, in case a bill is filed in any court to foreclose this mortgage for non-payment of either principal or interest, that the mortgagor will pay a reasonable solicitor's fee, and the same shall be included in the decree and be taxed as costs; and we, A. B., and C., wife of A. B., hereby release all right to the said premises which we may have by virtue of any homestead laws of this State, and in consideration of the premises, C. wife of A. B., doth hereby release to said board all her right and title of dower in the afore-granted premises for the purpose aforesaid.

In testimony whereof, we have hereby set our hand and seals this day of, 19....

A. B. (Seal.)

C. B. (Seal.)

Which mortgage shall be acknowledged and recorded as is required by law for other conveyances of real estate, the mortgagor paying expenses of acknowledgment and recording.

On payment of any school mortgage in full, it shall be the duty of the trustees of schools to give a deed of release of such mortgage or to enter satisfaction thereof upon the record, such deed of release or satisfaction to be executed by the township treasurer.

RELEASE OF HOMESTEAD—A mortgage given upon a party's homestead to secure money borrowed from the school fund, which fails to release the homestead right, is not effective and obligatory as against such right although in the form prescribed by the statute in force at the time of its execution, and no forced sale can be had under the same. 98 Ill., 248.

BREACH.—Sec. 8 Upon the breach of any condition or stipulation contained in said mortgage, an action may be maintained and damages recovered as upon other covenants; but mortgages made in any other form to secure payment, as aforesaid, shall be valid as if

no form had been prescribed. In estimating the value of real estate mortgaged to secure payment of money loaned under the provisions of this law, the value of improvements liable to be destroyed may be included; but in any such case said improvements shall be insured for the insurable value thereof in some safe and responsible insurance company or companies, and the policy or policies of insurance shall be transferable to the board of trustees as additional security for any loan, and shall be kept insured until the loan is paid.

ADDITIONAL SECURITY.—Sec. 9. In all cases where the board of trustees shall require additional security for the payment of money loaned, and such security shall not be given, the township treasurer shall cause suit to be instituted for the recovery of the same, and all interest thereon to the date of judgment: *Provided*, that proof be made of the said requisition.

PREFERENCE.—Sec. 10. In the payment of debts by executors and administrators, those due the common school or township fund shall have a preference over all other debts, except funeral expenses, the widow's award and the expenses attending the last sickness, not including the physician's bill. And it shall be the duty of the township treasurer to attend at the office of the probate judge upon the proper day, as other creditors, and have any debts, as aforesaid, probated and classed, to be paid as aforesaid.

ADDITIONAL SECURITY.—It is the duty of school trustees to call for additional security upon any loan if in their judgment the interest of the township demands it. The board should make a record order to that effect and the treasurer should serve the person so indebted with a copy of the order signed by himself and the president of the board. A notice in the following form would be sufficient:

To _____

By order of the trustees of schools of township No., Range No., you are required to give additional security for money loaned you, from the school fund of said township.

_____, Treasurer. _____, President.

If the principal on a note due the school fund dies, the treasurer should probate such claims against the estate within two years otherwise any loss sustained would be thrown upon the school treasurer and his bond. Such claims are preferred by statute, and it is the duty of the treasurer to present such claims for probate. When probated the rate of interest is six per cent." 68 Ill., 140; 90 Ill., 603.

DEFAULT.—Sec. 11. If default be made in the payment of interest due upon money loaned by any county superintendent or township treasurer, or in the payment of the principal, interest at the rate of twelve per cent. per annum shall be charged upon the principal and interest from the day of default, which interest shall

be included in the assessment of damages; or in the judgment in the suit or action brought upon the obligation to enforce payment thereof, and interest as aforesaid may be recovered in an action brought to recover interest only. The said township treasurer is hereby empowered to bring appropriate actions in the name of the board of trustees, for the recovery of the yearly interest, when due and unpaid, without suing for the principal, in whatever form secured; and justices of the peace shall have jurisdiction of such cases of all sums not exceeding two hundred dollars.

SUITS.—Sec. 12. All suits brought or actions instituted under the provisions of this act, may be brought in the name of the trustees of schools of Township No., Range No. except as provided for *qui tam* actions, or actions in favor of county superintendents.

NEED NOT WAIT.—The township treasurer need not wait for an order from the trustees to bring suit for the recovery of any principal or interest due the school fund. It is well for the treasurer to advise with the trustees on matters of this kind, but he must use his best judgment in all matters as he is the one that stands between the funds and any loss that may occur.

BRINGING SUIT.—In bringing suit for recovery of any principal or interest, the twelve per cent provided for in section 11 above is a penalty and must be sued for as such. We think that it will be understood without discussion that the twelve per cent. is a penalty on interest in default, as it is also on principal that may be in default. 17 Ill., 51.

"Two classes of cases are embraced by this act; one where interest is due and unpaid; the other where principal is due and payable. In the former case the amount of unpaid interest bears interest at the rate of twelve per cent. per annum, and it may be sued for and recovered in a separate action. In the latter case the principal debt bears at the rate of twelve per cent. per annum from the date it falls due. The provisions of this act do not apply to the original principal when the debtor is not in default respecting it. It is only when the principal is due and payable that the rate of interest is increased. This, we are satisfied, was the intention of the legislature, although it must be admitted that the intention is not as clearly expressed as in the act of 1835. A different construction would render the law highly penal in its character. If twelve per cent. interest was to be charged upon the principal on every failure to make a payment of interest, it would operate very severely upon the debtor. Loans are made for five years; and the penalty for failing to pay a few installments of interest might exceed the principal debt. Such a construction ought not to be put upon the law, unless it manifestly appears that it was the design of the legislature." 14 Ill., 371.

TO KEEP FUNDS.—Sec. 13. The said township treasurer shall demand, receive and safely keep, according to law, all moneys,

books and papers of every description belonging to his township. He shall keep the township funds loaned at interest; and if, on the first Monday in October, in any year, there shall be any interest or other funds on hand which shall not be required for distribution, such amount not required as aforesaid, may, if the board of trustees see proper, forever be considered as principal in the funds to which it belongs, and loaned as such.

REPORT—Sec. 14. On the first Mondays in April and October of each year, the township treasurer shall lay before the board of trustees a statement showing the amount of interest, rents, issues and profits that have accrued or become due since their last regular half-yearly meeting, on the township lands and township funds, and also the amount of State and county fund interest on hand. He shall also lay before the said trustees all books, notes, bonds, mortgages and all other evidences of indebtedness belonging to the township, for the examination of the trustees; and shall make such other statement as the board may require, touching the duties of his office.

APRIL, OCTOBER STATEMENTS—At the April meeting the township treasurer is required to make to the board of trustees a statement showing the condition of the township fund, especially with regard to the income and other distributable funds that the trustees may make the distribution as provided in section 26 of this article. At the meeting in October he should make a statement showing the condition of all the funds, including the district accounts, that the trustees may examine and audit each and all of the accounts.

EXHIBIT—Sec. 15. The said township treasurer shall make out annually, and present to the board of trustees, at their meeting succeeding the annual election, a complete exhibit of the fiscal affairs of the township, and of the several districts or parts of districts in the township, showing the receipts of money, and sources from which they have been derived, and the deficit and delinquencies, if there be any, and the cause, as well as a classified statement of the moneys paid out, and the amount of obligations remaining unpaid.

STATEMENTS—Sec. 16. The township treasurer shall, within two days after the first Monday in April, and on July 15th in each year, make out for each district or part of district in the township, a statement or exhibit of the exact condition of the account of such district or part of district, as shown by his books on April first and June thirtieth of each year; which statement or exhibit shall show the balance at the time of making the last exhibit, and the amount received since, up to the time of making the exhibit, and when and from what source received; and it shall also show

the amount paid out during the same time, to whom paid, and for what purpose, and shall be balanced, and the balance shown. It shall be the duty of said treasurer to comply with any lawful demand of said trustees may make as to the verification of any balance reported by said treasurer to be on hand. The exhibit shall be subscribed and sworn to by the treasurer before any officer authorized to administer an oath, and shall then, by the treasurer, be, without delay, delivered or transmitted by mail to the clerk of the board of directors of the proper district. It shall be the duty of said clerk, upon receiving such exhibit, to enter the same upon the records of the district, and, at the next annual election of directors thereafter, to cause a copy to be posted up at the front door of the building where such election is held.

JULY REPORTS—The importance and value of the reports required by the above sections can be clearly seen. The reports required in April are important to the directors and to the taxpayers. The one due July 15 will aid the directors in making the tax levy for the next year's schools. The penalty for failure on the part of any treasurer, clerk of any board of directors or board of education to make the reports required in the preceding sections is liable to a fine of not less than five dollars nor more than fifty dollars.

FAILURE—Sec. 17. For a failure on the part of the treasurer, clerk of any board of directors, or any director, to comply with any of the requirements of the preceding sections of this article, he shall be liable to a penalty of not less than five dollars (\$5) nor more than fifty dollars (\$50), to be recovered before any justice of the peace of the county in which the offense is committed.

INTEREST—Sec. 18. When any order drawn for the payment of a teacher, is presented to the township treasurer for payment, and is not paid for want of funds, the said treasurer shall make a written statement over his signature by an endorsement on such order, with date, showing such presentation and non-payment, and shall make and keep a record of such endorsement. Such order shall thereafter draw interest at the rate of seven per cent. per annum until paid, or until the treasurer shall, in writing, notify the clerk of the board of directors that he has funds to pay such order; and of said notice, the said treasurer shall make and keep a record; after having given said notice, he shall hold the funds necessary to pay such order until it is presented for payment, and such order shall draw no interest after the giving of said notice to said clerk of the board. (Act amended April 24, 1899. In force July 1, 1899.)

DRAW INTEREST—This section very definitely states when and

how teachers' orders are made to draw interest, and is equally as explicit as to when and how such orders cease to draw interest. It is scarcely necessary to say that these provisions must be complied with in all respects if the teachers and the districts desire to avail themselves of their rights under the law.

Sec. 19. In addition to the foregoing requirements, it shall be the duty of the said township treasurer—

First—To return to the county clerk of his county, on or before the second Monday in August each year, the certificate of tax levy made by each board of school directors in his township.

RETURN LEVY—Should the officer fail or refuse to return the certificate of tax levy as provided in this clause, and the same is returned to and filed by the county clerk at a later date, the tax levied and extended under such certificate would be legal in effect the same as if returned on the date provided, but the tardy officer would be subject to a fine.

Second—To pay, whenever he has funds in his hands belonging to the district, all lawful orders drawn on him by the board of directors of any school district in his township.

Third—To collect, from the collector of taxes of the township and the county collector of taxes, the full amount of the tax levies made by the several boards of directors in his township.

Fourth—To examine the official record of each school district in the township on the first Mondays in April and October of each year.

SETTLEMENTS—The statute makes it the duty of the township treasurer to inspect the records and the books of the boards of directors in his township on the first Mondays in April and October, and to this end it is the duty of these officers to meet the treasurer at his office on these dates that such inspections and settlements, as the law contemplates, may be made. Compliance with this part of the statute will prevent a deal of trouble, ill feelings and little differences and disputes which add nothing to the advancement of schools and educational interests. These semi-annual settlements do much to acquaint the officers and people with the financial affairs of their schools and tend to make people more watchful of their public interests. Some object to this on the ground that the law provides no compensation for the service, but such objection has no weight, for well do the officers know, or should know, what the law demands at their hands when they assume the duties. It is not necessary that all members of the board meet with the treasurer, for the clerk of the board can submit the records, etc., and note the settlement, and the law permits the school boards to allow their clerks a reasonable compensation for their services.

Argument of the wisdom of this requirement is not needed, nor is it necessary to say that officers who are negligent of their duties

as school directors place themselves in a position that subjects them to the penalty of the law.

Fifth—To keep a correct account between the districts where pupils are transferred by directors from one district to another.

Sixth—To give, upon the order of the trustees of schools, notice of the election of trustees, as required by law.

Seventh—To cause to be published in some newspaper published in his county an annual statement of the finances of the township, as required by law.

PUBLISH STATEMENT—It is the duty of the township treasurer to publish in some newspaper in the county a financial statement, showing the sources from which funds were received and for what paid out. The statement required should include the accounts of both the township and school districts. Such statements must be attested by the treasurer's affidavit.

The law does not fix the date of publication, hence the officer may publish the same any time from the first of April to August, though we incline to the opinion that the better time would be in April or May.

Ninth—To make, whenever a change has been made in the boundaries of a school district, a complete copy of the records of the trustees, a map of the township showing such change of boundaries, and an accurate list of the tax-payers in the newly arranged districts, and file the same with the county clerk within twenty days of the time such change was made.

Tenth—To file and safely keep all poll-books and returns of elections which may be delivered to him under any provisions of this act.

Eleventh—To receive and keep safely all moneys, securities, papers and effects belonging to the township or the school districts, which, by law are required to be deposited with such treasurer.

RELEASE—Sec. 20. For any failure or refusal to perform all the duties required of the township treasurer by law, he shall be liable to the board of trustees, upon his official bond, for all damages sustained, to be recovered by action of debt by said board, in their corporate name, for the use of the proper township, before any court having jurisdiction of the amount of damages claimed; but if such treasurer, in any such failure or refusal, acted under and in conformity to a requisition or order of said board, or a majority of them, entered upon their journal and subscribed by them, then, in that case, the members of the board aforesaid, and not the treasurer, shall be liable, jointly and severally, to the inhabitants of the township for such damages, to be recovered by an action of assumpsit in the name of the county

superintendent of schools, for the use of the proper townships. *Provided*, that said township treasurer shall be liable for any part of the judgment obtained against said trustee which can not be collected on account of the insolvency of such trustees.

IS LIABLE—Section twenty above seems to provide for the relief of school treasurers in certain cases, and no doubt in some *few* instances a treasurer might be protected under this law, but the chances are so meager that no treasurer is safe in taking the risk in matters that involve any great amount. A close review of the rulings of the courts as to the responsibility of school treasurers will reveal the fact that such officers will find but little relief under this or any other section of the statute. 78 Ill., 22; 99 Ill., 564; 24 Ill., App. (Smith) 231.

SUCCESSOR—Sec. 21. Whenever a township treasurer shall resign or be removed, and at the expiration of his term of office, he shall pay over to his successor in office all money on hand, and deliver over all books, notes, bonds, mortgages and other securities for money, and all papers and documents of every description, in which the corporation has any lawful interest whatever. And in case of the death of the township treasurer, his securities and legal representatives shall be bound to comply with the requisitions of this section, so far as the said securities and legal representatives may have the power to so do. And for a failure to comply with the requisites of this section, the persons neglecting or refusing shall be liable to a penalty of not less than ten dollars (\$10) nor more than one hundred dollars (\$100) at the discretion of the court before which the judgment may be obtained, to be recovered in an action of debt, in the name of the trustees of schools, before any justice of the peace, for the benefit of the school fund of the township: *Provided*, that the obtaining or payment of the judgment shall in no wise discharge or diminish the obligations of the persons signing the official bond of such township treasurer.

RESIGNATION, ETC.—On removal, resignation or the expiration of the treasurer's term of office, the statute states what his duties are as to books, funds, papers, files, vouchers, etc., belonging to the township, and for a failure to discharge any of these duties he is liable to a fine of not less than ten dollars nor more than one hundred dollars. The payment of such fine would not in any way release him and his securities from liability on the bond.

COMPENSATION—Sec. 22. The township treasurers shall receive in full, for all services rendered by them, a compensation to be fixed prior to the election, by the board of trustees.

FIXED SALARY—The board of trustees and the township treas-

ers in some townships violate this section of the law, in that they fix the treasurer's pay as part salary and part commission on money received and paid out, or they fix his pay at a commission for all services. This is contrary to the laws. The salary should be fixed before the appointment is made at a stipulated amount, and should be in full for the services required by his office. 99 Ill., 564.

ARTICLE V.

BOARD OF DIRECTORS.

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| § 1. Board of directors in districts with less than 1,000 inhabitants. | § 19. Business to be done at a regular or special meeting. |
| § 2. Board of directors a body politic. | § 20. President or clerk pro tempore. |
| § 3. Eligibility of school directors. | § 21. Report of the organization. |
| § 4. Non-residence creates a vacancy. | § 22. Reports of statistics, etc. |
| § 5. Annual election and term of office. | § 23. Not to be interested in school contracts. |
| § 6. Election in new districts. | § 24. Not to be interested in sale of school books, etc. |
| § 7. Vacancies. | § 25. Liable to indictment and fine. |
| § 8. Notices of election. | § 26. Duties defined. |
| § 9. Election in certain cases ordered by township treasurer or county superintendent. | § 27. Additional powers defined. |
| § 10. Judges; postponement; election on any Saturday. | § 28. Orders on demand. |
| § 11. A tie vote. | § 29. Orders in anticipation of taxes. |
| § 12. Delivery of the poll-book, and filing the same; certificate. | § 30. Liable for balance due teachers. |
| § 13. Poll-book in union district. | § 31. Vote of the district required to locate school sites, etc. |
| § 14. Penalty for failure to deliver the poll-book. | § 32. Compensation for school site. |
| § 15. Organization of the board. | § 33. Removal by the county superintendent. |
| § 16. Quorum. | § 34. Funds paid out upon orders; form of order. |
| § 17. Records. | § 35. Transfer of pupils; separate schedules. |
| § 18. Meetings. | § 36. Directors collect amount due from transfer pupils. |

DIRECTORS—Sec. 1. In all school districts having a population of less than one thousand inhabitants, and not governed by any special act in relation to free schools now in force, there shall be elected in the manner hereinafter provided for, a board of directors, to consist of three members. (As amended by an act approved June 1, 1889.)

CORPORATE—Sec. 2. The directors of each district are hereby declared a body politic and corporate, by the name of the "school directors of District No., township No., range No., county of, and State of Illinois," and by that name may sue and be sued in all courts and places whatever.

PURPOSE—It is not necessary to discuss the powers of a school board at length, though it may be more important to speak of their duties. It is enough to say that the court in 78 Ill., 136, very clearly defines the powers of such corporations. "They are only intended to establish and maintain schools in their districts. They were not created to exercise any of the functions of government and therefore are not municipal in their nature or purpose,

nor are they provided with the power to exercise the functions of government. Cities, villages and towns are endowed with such powers, and are created and maintained to aid in the government of the people. But not so with school districts. The sole object in creating them is to promote and bring about a general education of the people by providing good and sufficient schools to accomplish the purpose. To do this the legislature has clothed them with sufficient power and defined their duties. School directors should see to it that their schools are supplied with the necessary things with which the pupils can do the work. On this point we quote from State superintendent Raab's address and suggestions to school directors of Illinois:

"You are, no doubt, anxious that your teachers should do the best work possible in the schools under your charge. This cannot be done unless you will furnish your teachers the means with which to illustrate teaching, as well as tools with which to work. In many schools I find that these needful instruments of successful teaching are withheld from a mistaken notion of economy. In your own business you are careful to get the best tools and helps; do not, I beseech you, expect of your teacher that they "make bricks without straw." If judiciously expended, a small sum of money investel annually will go a great way, and insure better results than you are able to obtain without this expenditure.

The very best we can do and give is just "good enough" for the children.

Good and sufficient blackboards are essential to good work. When there are none such in your school, cause them to be made by engaging a painter who understands that business, or a regular blackboard maker. Blackboards, unless they be real slate, need to be reslated once in three years. This is a job that almost any one capable of wielding a brush can do. In connection with the blackboards, chalk, crayon and erasers are needed. These can be had at slight cost.

Foolscap paper, ink, pens, and penholders, lead pencils and slate pencils may be purchased at the expense of the district, and a great saving of money not only, but also uniform and better written work of the children will be the consequence. These supplies can not be taken home by the pupils, but should remain at school in the custody of the teacher. When needed for work they should be distributed and immediately after the work is done, they should be collected and taken care of by the teacher.

Teachers should be held responsible for the economic use of these supplies and everything furnished by the board, not only because of the money value, but much more for the sake of teaching the pupils habits of economy and thrift. To allow the children to waste things is a great moral wrong, and the teacher who permits such wastefulness does not do his duty to the rising generation.

Books of reference should be in every school. Under this head I may class a copy of Webster's Unabridged Dictionary for the use of the teacher and one or several copies, according to the

number of the children, of Webster's Condensed Dictionary, for the use of the more advanced scholars; a Gazeteer for the study of facts in geography, and an Encyclopedia for general information.. I do not quote prices, because I presume that you keep in touch with your county superintendent who will take pride in advising you promptly where such books can be purchased to the best advantage.

To further the instruction in reading, penmanship and arithmetic, reading, penmanship and arithmetic charts are indispensable. A set of geographical outline maps, a map of Illinois and of your county, a globe and a slated globe are also indispensable. All these articles will last a number of years, and when they are once supplied and proper care is taken of them, need not be replaced very often. In fact, it is not necessary to buy all of them at once; but if part of them is purchased every year, the burden will not fall heavily upon the district, and the hearts of the teachers and pupils will be gladdened from time to time. Thus a new impulse will be given in the several branches which they serve to illustrate.

In conclusion, a word in regard to school libraries. The school is the proper agency to establish a library in country districts. The reading of good books exerts a silent educational influence upon the young. Out of 11,509 districts in Illinois, only 1,782 report libraries in 1891, leaving 9,727 totally without that potent factor in education. When we consider that these 1,782 libraries are kept in cities, towns and villages, it becomes clear that the people of the rural districts go almost entirely without the reading of good books. This is another cause, undoubtedly, why the rural population is left behind in the race. Would it not be a glorious thing if the directors would assist the people of the country in the march of progress?

I do not wish the school directors to waste the people's money; on the contrary, I desire to see a great outcome from a small expenditure. If you plow deep and sow good seed, a splendid harvest, not altogether to be measured by dollars and cents, must be the result."

A board of school directors as a corporate body can bind their successors in office in contracts that are necessary, as the employment of teachers whose term of contract may not end for one, two or three months after the election of a new board. A contract for more than one year is illegal and would not be binding on the successors in office; neither would a contract made prior to the annual election for the next year's service. A contract made with a teacher prior to the April election for a term to commence after the election, is void and not binding, but if the term commences in the latter part of March or at any time in April before the election, and though it may continue, as stated, some two months or so after the election, such contract would be valid and bind the successors in office. 87 Ill., 255; 92 Ill., 293; 24 Ill., App. 191.

To contract a debt legally, the debt must be for school purposes, and all the necessary conditions to empower or authorize the school board to contract the debt must exist. To build they must first have a vote of the people, (male voters) and also in issuing bonds or the removal of a school house, to refund bonds, to purchase a site, to levy a tax to extend school beyond nine months, to enlarge a school house, are all questions upon which the people must vote before directors can legally act upon them. 87 Ill., 255; 7 Ia., 509; 11 Ia., 82.

If the records do not show that a school district has been established, it may be shown by reputation. 54 Conn., 74.

In questioning the legal right of a school district, the action must be direct. 111 Ill., 171.

ELIGIBILITY—Sec. 3. Any person, male or female, married or single, of the age of twenty-one years and upwards, who is a resident of the school district, and who is able to read and write in the English language, shall be eligible to the office of school director: *Provided*, that no person shall be eligible to the office of school director who is at the time a member of the board of school trustees.

REMOVAL—Sec. 4. If any director shall, during the term of his office, remove from the district in which he was elected, his office shall thereby become vacant and a new director shall be elected, as in other cases of vacancy in office.

DATE OF ELECTIONS—Sec. 5. The annual election of school directors shall be on the third Saturday of April, when one director shall be elected in each district, who shall hold his office for three years, and until his successor is elected.

FIRST ELECTION—Sec. 6. In new districts, the first election of directors may be on any Saturday, notice being given by the township treasurer, as for the election of trustees, when three directors shall be elected, who shall, at their first meeting, draw lots for their respective terms of office, for one, two and three years..

VACANCIES—Sec. 7. When vacancies occur, the remaining director or directors shall, without delay, order an election to fill such vacancies, which election shall be held on Saturday.

NOTICE—Sec. 8. Notices of all elections in organized districts shall be given by the directors at least ten days previous to the day of said election. Said notices shall be posted in at least three of the most public places in the district, and shall specify the place where such election is to be held, the time of opening and closing of the polls, and the question or questions to be voted on.

ESSENTIALS—The law governing elections is a volume of itself, and it will be enough to discuss the essential points involved in the election of school boards, and for voting upon other questions which the voters must pass upon before directors can act. To be eligible to the office of school director the person must be twenty-one years of age, a citizen of the United States, a resident of the State one year, and a resident of the school district at least thirty days prior to the election day, and such notice shall state the time and place and the question upon which the people are called to vote. The statute does not say when the polls shall open or when they shall close. Boards should give ample time in which all may have an opportunity to vote. In rural districts the time is usually from one till four p. m. In cities and villages longer, according to population.

ELECTION NOTICE—Notice is hereby given, that on Saturday, the day of, an election will be held at, in School District No., Township No., Range No. in the County of and State of Illinois, for the purpose of electing, school director for said district. The polls will be open at ... o'clock .. m, and close at o'clock .. m. of said day.

....., President.

....., Clerk.

Remark.—If more than one director is to be elected or any special propositions are to be submitted modify the form to suit.

Note—The qualifications to entitle one to vote at a school election are the same as those required at any general election. There seems to be a prevailing opinion that if a voter has resided in a district ten days, he may legally vote at a school election. Another erroneous idea, which is quite general, is that the place where a voter has his washing determines his residence and voting place. The law says *thirty days* in the voting district or precinct. By district is meant any given territory that is authorized to hold elections and elect officers for itself as a school district or a ward in a city or a village corporation, even though the territory constituting the district may be small and the office minor, the one statute governs. There are instances where the voter boards in one election district, sleeps in another, and secures his washing in another, all of which, especially the latter, have little to do with deciding the rights of the voter. There must be something more tangible than the question of washing, etc., when deciding upon the voter's rights.

MUST BE SWORN—The judges and the clerk of the election must be sworn before opening the polls. If there is no one present authorized to administer an oath, then the judges and clerk swear each other.

WHO MAY CALL ELECTION—The county superintendent or the township treasurer may call an election in a district, or if there is one director he may call an election to elect members of the board, but elections to vote on special propositions must be called by the board of directors and by no other persons.

The law says that regular and special elections for the elections

of members must be held on Saturday, but special elections for the purpose of voting upon special questions may be held on any week day.

ADDING BRANCHES—The question of adding other branches to the course of study other than those prescribed by law, or prescribed by the school board, may be voted upon by the people. As an example "Astronomy" is a branch which the law authorizes the people to vote upon. A branch so voted in by the people can not be put out by the school board, neither can the people vote out a branch put in by the board.

POLLS OPEN—The polls must be kept open until the hour fixed by the notice, and when closed that ends the right of all to vote. The polls can not be reopened and a new vote taken, and it would be illegal to reopen the polls to receive other votes. 58 Vt. 694.

VOTE OF NO FORCE—Such questions as employing a teacher, buying seats, purchasing school supplies and similar questions are matters that belong to, and is the duty of the school board to decide upon. Hence a vote of the people on such questions has no legal force. 56 Vt. 556.

FILL VACANCY—The law contemplates that, when a vacancy occurs in a board of directors or in a board of trustees, a special election will be ordered to fill such vacancy. A failure or refusal to fill such vacancies deprives the schools and the districts of the benefits to be derived from full boards.

POSTPONE ELECTION—At an election for the election of a director, if the directors present and acting as judges of such election, deem it to the best interest of the district they may postpone such election, or when duly organized the voters, present, for the same reason, may postpone the same. The adjournment must be taken in a regular way, and not informally. An informal adjournment would not legally prevent, or interfere with the right of voters who might come together later, at the place, and organize and hold such election, provided that the hour of closing the polls as set forth in the notice for the election that day has not expired.

ADJOURNMENT—When an adjournment is taken the officers should post a notice of the same at the place of meeting. If the notices of the election have not been up ten days, as required by law, an adjournment till the following Saturday will not cure the defect. 20 Ill., 474.

CONTEST—An election for school director may be irregular and illegal, but if the election officers make up the returns and file them with the township treasurer he must receive and file them. He is not a judicial officer; therefore he has no legal authority to pass upon the validity of the election or the returns. Such questions must be settled by the county court on contest, or writ of quo warranto.

RETURNS—Poll books and ballots must be returned to the treasurer within ten days, and for a failure to make such returns the persons so failing are liable to a fine not less than \$25, nor more than

\$100. Such failure to make returns does not deprive the person or persons elected at such election of their offices. The poll book filed with a treasurer or a county superintendent is evidence of the election. If such book is destroyed or lost, other evidence may be taken to show the election. The evidence of a poll book may be rebutted.

Election boards must make up the returns and seal up the ballots before the election officers depart, as they cannot come together at another time and complete the work. 177 Ill., 185.

WHO MAY ORDER—Sec. 9. Should the directors fail or refuse to order any regular or special election, as aforesaid, it shall be the duty of the township treasurer to order such election, and if the township treasurer fails to do so, then it shall be the duty of the county superintendent to order such election of directors within ten days, in each case of such failure or refusal, and the election held in pursuance of such order shall be valid, the same as if ordered by the directors.

JUDGES—Sec. 10. Two of the directors ordering such election shall act as judges, and one as clerk of such election. But if said directors or any of them shall fail to order an election, to attend, or shall refuse to act when present, and in all unorganized districts and in elections to fill vacancies, the legal voters when assembled shall choose such additional members as may be necessary to act as two judges and a clerk of said election: *Provided*, that if upon the day appointed for said election, the said directors or judges shall be of opinion that, on account of the small attendance of voters, the public good requires it, or if the voters present, or a majority of them, shall desire it, they shall postpone said election until the next Saturday, at the same place and hour, when the voters shall proceed as if it were not an adjourned meeting: *And provided, also*, that if notice shall not have been given as above required, then said election shall be ordered as aforesaid and holden on any Saturday, notice thereof being given, as aforesaid.

TO FILL VACANCIES—In the matter of calling elections to fill vacancies in "union" districts, if the directors fail or refuse to order such election the township treasurers may join in calling the same, or one of the treasurers may legally act. In case the township treasurers fail to order the election, the county superintendents of the counties in which a part of the district is situated may join in ordering an election to be held, or one of such county superintendents may give notice that an election will be held in such district for the purpose of electing directors.

TIE—Sec. 11. In case of a tie vote, the judges shall decide it by lot on the day of the election.

MUST VOTE BY BALLOT—The vote on any and all questions must be by ballot, and the ballot must conform to the notice. All questions must be upon one ballot. Questions not submitted in the election notice cannot be voted upon legally. If the vote for director is a tie, the judges must decide the election. If not so decided, there must be a new election. In an election on other questions, the proposition is lost on a tie vote.

RETURN—Sec. 12. Within ten days after every election of directors, the judges shall cause the poll-book to be delivered to the township treasurer, with a certificate thereon showing the election of said directors and the names of the persons elected; which poll-book shall be filed by the township treasurer, and shall be evidence of said election.

UNION DISTRICTS—Sec. 13. In cases of a union district, made up of parts of two or more townships, the poll-book shall be returned to the township treasurer who receives the tax money for said district.

PENALTY—Sec. 14. For a failure to deliver the poll-book within the time prescribed, the judges shall be liable to a penalty of not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) to be recovered in the name of the People of the State of Illinois, by action of assumpsit, before any justice of the peace of the county, which penalty, when recovered, shall be added to township school fund of the township.

ORGANIZATION—Sec. 15. The directors, within ten days after the annual election of the directors, shall meet and organize by appointing one of their number president, and another of their number clerk of such board of directors.

QUORUM—Sec. 16. Two directors shall be a quorum for business.

RECORDS—Sec. 17. The clerk of such board of directors shall keep a record of all the official acts of the board in a well-bound book provided for that purpose, which record shall be signed by the president and clerk, and shall be submitted to the township treasurer for his inspection and approval on the first Mondays of April and October, and at such other times as the township treasurer may require.

MEETINGS—Sec. 18. The board of directors shall hold regular meetings at such times as they may designate; and they may hold special meetings as occasion may require, at the call of any two members.

ILLEGAL BUSINESS—Sec. 19. No official business shall be transacted by the board except at a regular or special meeting.

PRESIDENT AND CLERK—Sec. 20. If the president or clerk be absent from any meeting, or, being present, refuses to perform his official duty, a president or clerk *pro tempore* shall be appointed.

REPORT—Sec. 21. The clerk of each board of school directors shall report to the township treasurer or treasurers of the proper township or townships immediately after the organization of the board, the names of the president and clerk of such board.

REPORT OF ORGANIZATION OF DISTRICT BOARD.

To

Treasurer of T R County of Illinois.

The School Directors of District No. in your Township met as required by law, and appointed one of their number President and another Clerk of the Board of Directors; to-wit:

..... President. P. O. Address

..... Clerk. " "

..... Director. " "

The above is a correct report of the Organization of the District Board of Said District as now organized.

..... Clerk of the Board.

REPORT OF STATISTICS—Sec. 22. On or before the seventh day of July, annually, the clerk of each board of directors shall report to the township treasurer having the custody of the funds of such district, such statistics and other information in relation to the schools of his respective district as the township treasurer is required to embody in his report to the county superintendent, and the particular statistics to be so reported shall be determined and designated by the State Superintendent of Public Instruction, or by the county superintendent.

ORGANIZATION—Boards of directors should meet and organize and fix a date for regular meetings which would be presumed to be at the school house if no other place is named. While the school of the district is in progress the board should hold monthly meetings, and such special meetings as may be for the interest of the school and the public business.

All school boards should keep a full and complete record of all their acts and business. The experience of the writer is that a failure to keep such records, or to keep them in a clear and business like way is the source of more trouble, discussions, and law suits, than any other two or three things connected with the school district system. A clerk should be paid for doing his work well, and the boards should see that he performs this duty in the manner contemplated in the law. When the records are properly written up, the president and the clerk of the board should sign the same.

MUST MEET—All official business of a school board must be transacted at a regular or a special meeting of the board, duly and properly called. Properly means that *all* the members must have notice of the meeting. It is scarcely necessary to say that corporate bodies

can not bind the corporation when the members of the board act separately and individually. The law will not permit officers to act otherwise than as it points out.

NOTICE FOR SPECIAL MEETING OF DIRECTORS.

To

You are hereby notified that there will be a special meeting of the school directors of district No., Township No. Range No. at on the day of, at the hour of o'clock m., to attend to the following business:

..... President.

Remark—The notice may be given by two members.

FORBIDDEN—Sec. 23. No director shall be interested in any contract made by the board of which he is a member.

RIGID COURT RULING—This embraces every contract whether expressed or implied, by virtue of which money can be drawn from the treasurer; and it cannot be evaded by appropriations or payments for material furnished or labor performed for the benefit of the district, on the pretext that they were performed or furnished without any contract, but being beneficial to and enjoyed by the district, should be paid for as a matter of justice. Both the letter and the spirit of the law forbid that directors shall, in any wise, whether directly or indirectly, openly or covertly, become interested in demands or claims originating while they are directors, to be satisfied by payments from the funds of their school districts; and the construction must be rigidly enforced by the courts, without regard to the moral or equitable consideration that may urge a different policy in particular cases." 85 Ill., 338.

NOT A VIOLATION OF LAW—It is not in violation of law for a director to apply to a board of which he is a member and receive a permit to send his child to another district, if the reasons are such as to show that he is not properly provided with school in the home district on account of distance or bad roads.

NO PAY AS JUDGES OF ELECTION—It is the duty of directors, members of boards of education, and trustees, to act as judges and clerks of school elections, and for such service they are not allowed pay from any school fund. If they fail or refuse to act, and other persons act in their stead, no board of directors, board of education, nor trustees has any right to appropriate school funds to pay for such services; it is in violation of law, and the officers making such appropriations may be made to cover the money back into the fund from which it was taken.

NOT INTERESTED—Sec. 24. No director shall be interested in the sale, proceeds or profits or any book, apparatus or furniture used or to be used in any school in this State with which he may be connected.

PENALTY—Sec. 25. Any person offending against the provisions of the two preceding sections shall be liable to indict-

ment, and, upon conviction, shall be fined in any sum not less than twenty-five dollars (\$25) and not more than five hundred dollars (\$500), and may be imprisoned in the county jail not less than twelve months, at the discretion of the court.

EMPLOYING MINOR CHILD—Sections 23 and 24 above are very explicit and should be well followed by the members of all school boards. To employ as teacher one of the minor children of a director, to teach in the district, is a violation of the law, if the parent (director) can legally control the pay. A director is not permitted to teach in a district in which he is a director. It is unlawful for an outside party to take a contract to do work for the district, or furnish fuel, etc., and then for a director to do the work, or assist in doing it, or furnishing fuel, etc., and then share in the money. 85 Ill., 528.

ILLEGAL SALE—In a case where a director sold to his district a school site, it was held that he could not recover. It has also been held that where a director furnished money with which to build a school house in his district, he could not legally recover his money. 54 Ill., 338.

INSURANCE—School boards should see that the school houses and property under their control are at all times properly insured in reliable companies.. The insurance should be written in the name of the trustees for the use of the district. A member of the board acting as agent for an insurance company is not authorized to insure the property of his school district. 85 Ill., 338.

DUTIES—Sec. 26. It shall be the duty of the board of directors of each district—

First—At the annual election of directors to make a detailed report of their receipts and expenditures to the voters there present, and transmit a copy of such report to the township treasurer within five days from the time of said election

Second—To report to the county superintendent, within ten days after their employment, the full names of all persons employed as teachers, the date of the beginning and the end of their contract.

NOTICE—This statute makes it the duty of all school boards, when employing a teacher or teachers to report the names of such teachers to the county superintendent, and to the end that the reports may be helpful to the county superintendent, the notice should state the number of months for which the teacher is employed, the date when the school will commence and the amount of salary per month. This information is most needful to the county superintendent when arranging his plans for visiting the schools of his county. To us experience has shown these reports very helpful to the officer when making his annual report to the State department.

NOTICE OF TEACHERS EMPLOYED.

To the County Superintendent of.....County, Ill.s

In compliance with the requirements of law (Art. V, Sec. 26) the Board of Directors of District No....., Town, Range, hereby notify you that the said Board employed the person herein named to teach in the school of said district for the term of months, commencing

By order of the Board of Directors.

.....Clerk.
Name of teacher,..... Address..... Salary

Third—To provide for the necessary revenue to maintain free schools in their district in the manner provided for in article VIII of this act.

Fourth—When a district is composed of parts of two or more townships, the directors shall determine and inform the collectors of said townships, and the collector or collectors of the county or counties in which said townships lie, in writing, under their hands as directors, which of the treasurers of the townships from which their district is formed shall demand and receive the tax money collected by the said collector as aforesaid.

The location of the house should govern in deciding as to which treasurer should have the custody of the funds where a district is composed of territory lying in two or more townships. The credit of the school is given to the township in which the school house is located, hence the funds should be received and paid out by the treasurer of the township and the report pertaining to the school should be made by the trustees of that township to the county superintendent.

Fifth—To establish and keep in operation for at least one hundred and ten (110) days of actual teaching in each year, without reduction by reason of closing school on legal holidays, or for any other cause, and longer if practicable, a sufficient number of schools for the accommodation of all children in the district over the age of six (6) and under the age of twenty-one (21) years, and shall secure for all such children the right and opportunity to equal education in such free schools.

AMENDMENT—By virtue of an Act approved April 21, 1899, in force July 1, 1899, this clause is so amended that it is to be read "six months" instead of one hundred and ten days." See Sec. 1, Article VIII.

Sixth—To adopt and enforce all necessary rules and regulations for the management and government of the schools.

Seventh—To visit and inspect the schools from time to time as the good of the schools may require.

Eighth—To appoint all teachers and fix the amount of their salaries.

MAKE RULES—It is the duty of the school board to make and enforce all necessary rules that may aid in the success of the schools, and it is the duty of the teacher to enforce such rules and regulations, or so much thereof as relate to him and his part of the work and his position as teacher.

If the board fails to adopt any rules, those which the teacher may adopt from time to time for the government and management of the schools hold good. 11 Ill. App. Brad., 382; 17 Ill. App. Brad., 386; 16 Mass., 365.

BOOKS AND SUSPENSION—If parents are able to supply their children with the necessary books, etc., for study, it is their duty to do so. The laws in most States, give school boards authority to refuse pupils admission to the schools, if the parents fail to provide them with proper books for the classes. 2 Ill., App. 594; 108 Ind., 31.

NIGHT SCHOOLS—School boards are authorized to establish and maintain night schools for those who have grown up and have not acquired the rudiments of a public school education, and are so situated that they are obliged to labor through the day. These schools are to be maintained for this class of pupils who are between the ages of fourteen and twenty-one years. This is not to be construed so as to admit to the night schools those over fourteen years of age, and who can attend the day school. The school is expressly for those who cannot attend the day sessions.

POWER TO ADOPT RULES—"School boards have the power, and it is their duty, to adopt and enforce rules and regulations for the government and management of their schools. Such rules must be reasonable and calculated to promote the interest of the pupils and the objects of the law." 71 Ill., 567.

QUESTION OF LAW—What is a reasonable rule is a question of law, and we do not hesitate to declare that a rule that would bar the door of the school house against little children who come from a great distance (one and one-half miles) in the cold winter, for no other reason than that they were a few minutes tardy, is unreasonable and therefore unlawful. In its practical operation it amounts to little less than wanton cruelty." 63 Ill., 350.

SUBORDINATE TO BOARD—"While the principal or teacher in charge of a public school is subordinate to the school board or board of education of his district or city, and must enforce rules and regulations adopted by the board for the government of the school, and execute all its lawful orders in that behalf, he does not derive all his power and authority in the school and over the pupils from the affirmative action of the board. He stands for the time being *in loco parentis* to the pupils, and, because of that relation, he must necessarily exercise authority over them in many things concerning which the board may have remained silent." 45 Wis., 150; 53 Conn., 481; 111 Ind., 472.

A QUESTION FOR THE COURT—While in a general way the rules

for any particular school will depend upon the peculiar circumstances and is in the control of the local officers. There are some rules which seem to be of a universal nature in application and usage and have become a law of custom or usage and must be followed.

It has been held by the courts that whether or not a rule is reasonable is a question of law for the court to decide and not one of fact to be determined by a jury. 63 Ill., 350; 48 Vt., 473.

NOT INTERFERING—Any rule for the school, not interfering with the rights of children or parents, or in conflict with humanity and the precepts of Divine law, which tends to advance the object of the law in establishing public schools, must be considered reasonable and proper. 31 Ia., 562.

VACCINATION—The power to enforce a rule requiring pupils to be vaccinated before they are admitted to the school, has not been delegated to a school board nor to the State Board of Health. On several occasions such a rule has been promulgated, and school boards paid the expense for vaccinating the pupils of the school. This was an illegal use of the school funds. 167 Ill., 67; 177 Ill., 572.

TOBACCO IN SCHOOL—Directors of public schools have the right to make and enforce rules and regulations against the use of tobacco in any form in and on the school premises.

ACCIDENTAL DAMAGES—School boards cannot enforce a rule requiring pupils to pay for accidental damage or breakage of school property. Where the damage is not intentional, if the pupil refuses to pay, neither the school board nor the teacher could legally impose a punishment.

By an accident and without any evil purpose a pupil broke a window glass. The rule requires him to pay the damage done, and in default thereof authorizes the directors to exclude him from school. We may admit that he ought to pay the damages and is liable therefor. But we think his omission to perform this duty cannot be punished by his expulsion from the school. The State does not deprive its citizens of their property, or liberty, or of any rights, except as a punishment for a crime. It would be very harsh and obviously unjust to deprive a child of education for the reason that through accident and without intention of wrong he destroyed property of the school district. Doubtless a child may be expelled from school as a punishment for a breach of discipline or for offences against good morals, but not for innocent acts."

"In this case the plaintiff was expelled not because he broke the glass, but because he did not pay the damage sustained by the break-. His default in this respect was no breach of good order or good morals. The rule requiring him to make payment is not intended to secure good order, but to enforce an obligation to pay a sum of money."

"We are clearly of opinion that the directors have no authority to promulgate or enforce such a rule." 56 Ia., 479.

POWER DEFINED—In Illinois the Supreme Court holds that expulsion is not designed as a means of punishment; and that school boards can expel *only* for disobedient, refractory or incorrigibly bad conduct, after all other means have failed. 97 Ill., 375; 87 Ill., 567.

Ninth—The directors shall direct what branches of study shall be taught, and what text books and apparatus shall be used in the several schools, and strictly enforce uniformity of text books therein, but shall not permit text books to be changed oftener than once in four years, but shall prohibit such change.

CANNOT CONTRACT—School boards are authorized to prescribe text books for the use of the schools under their control, and shall not permit them to be changed for four years. This rule of law does not apply to books that have been in use by the school for four years or more. Boards cannot prescribe the books for further use and thereby bind their successors. The board, *at any time after* the four years, may prescribe other books. In prescribing books for the school, a board has no authority to make a contract with a book firm or publisher to use a book for a stated number of years. Such contracts are unauthorized by law and are not binding on the corporation. The statute does not authorize school boards nor similar *quasi* corporations to bind the municipalities by such acts. The Supreme Court of Kansas in a recent decision in a case in which these points were involved said: "A school board is without the power to make such contracts, and if made are void." 52 Pacific Reporter, 478.

It is not to be understood that in prescribing a book, that it must be used for four years to the exclusion of all others on the subject. The board may prescribe others as supplementary.

A board has the right to reconsider an order, prescribing a book for use in the schools, so long as the order has not been promulgated and the people ordered to comply.

If a school board fails to prescribe a book for use in the schools, and they silently permit the book to remain in use two or three years, then they cannot bind their successors by adopting a resolution prescribing the book for an additional four years. By their action or "inaction" they have permitted and recognized the book, and though their records show no evidence of any order prescribing the book, the presumption is that the book found its way into the school through the authority of the board.

CANNOT CHANGE BOOK—"This was a proceeding by *mandamus* in this court, the petition, being filed in the name of the People of the State of Illinois, on the relation of W. S. Mack, against the board of education of school district No. 5, township No. 38 north, range No. 8 east of the third principal meridian, in Aurora, Illinois, to prohibit the use and introduction in any of the schools of said district of the books of the Sheldon system of writing for a period of four years from June, 1895, and to prohibit for such period the introduction or use in such schools of any other books for the ver-

tical system of writing than books for the system known as "Merrill's Vertical Penmanship." * * * * * "The principal question presented by the petition, answer and demurer is, does the statute prohibiting the change of text-books oftener than once in four years apply to boards of education in school districts having more than 1000 inhabitants? * * *. Are the books in question text-books, within the meaning of the statute? The petition describes the books in question "as a system of text-books consisting of twelve graded writing or copy-books, with printed forms and text, scientifically arranged with printed instructions to the pupils in each book and with a manual of instruction for the teachers." This description is not denied in the answer of the respondent, but it denies that they are text-books. Penmanship is "one of the branches of education" required to be taught in the public schools. A teacher, to receive a certificate, must, upon due examination, be found qualified to teach penmanship. (Hurd's Stat. 1889, Sec. 3, p. 1243). In determining whether the books are text-books, within the meaning of the law, it will be necessary to inquire what text-books are. Webster defines a text-book as "a book or manual used in teaching; a book for students, containing the principals as a science or branch of learning." Stormouth's Pronouncing Dictionary defines a text-book to be "a book to be used as a standard book for a particular branch of study, for the use of students." The books here in question come within the definition given by Webster. They are books used in teaching penmanship. The books must be considered with reference to the particular branch of study for which they are designated. Rules for instruction in penmanship are necessarily simple. The books described in the petition as "twelve graded writing or copy books, with printed forms and texts, scientifically arranged, with printed instructions to the pupils in each book, and with a manual of instruction for the teachers" must be regarded as text-books for penmanship. The books for instruction in arithmetic, or Greek, or Latin are books of very different character, but still are text books applicable to the particular branch of study for which the author designed them. These books being for teaching of penmanship meet, in our judgment, the requirements of a text-book.

We are of opinion that a peremptory *mandamus* should issue, as prayed for in the petition of the relator, and is therefore ordered." 175 Ill., 9.

NOT TO EXCLUDE BRANCHES—The directors, the people, nor the instrutors have any right to exclude any of the branches named in the law, but it is not to be understood that all such branches shall be in the school at the same time. It is the intention of the law that the school boards shall arrange for such of the branches to be taught that any and all pupils who are prepared for the study, and wish to pursue it, may do so. It is the duty of the board to provide the district with a school or schools so that every child as he becomes fitted, shall have an opportunity of receiving instruction in the branches which the law has expressly named. The directors

or the voters may add other branches to the course of study, but branches so added can only be put out by the powers that put them in.

CAN CLASSIFY—The board is authorized to classify the pupils, fix the time to be devoted to each, and when and in what part of the term different branches shall be taught. The board is authorized to say in what order the branches shall be taught. Pupils must take up the studies as prescribed in the course of study, unless objections are made by the parents in good faith and honest motives, then the parent shall be allowed to select from the prescribed course such branches as they may wish their children to study, and for the study of which the children are fitted.

MODERN LANGUAGES—Boards of education and many who are elected from time to time to serve on school boards are often in doubt as to the right and power of school boards to include the *Modern languages* in the course of study. On this point the court has ruled that under the statute school boards, or the people of the district, may provide for the teaching of these studies in the public schools. 92 Ill., 612; 30 Mich., 69.

GRADUATES—Pupils who are under twenty-one years of age who are graduates of the school in their district, have the right to attend the school after such graduation for the purpose of reviewing any of the studies in the prescribed course. If there are studies in which they have not graduated they have a right to take up such as they may elect.

CHOICE OF STUDIES—The Wisconsin Supreme Court calls attention to the fact that the modern tendency of opinion is toward holding that the school is for the child, not the child for the school, and held thus:

"The defendant wished his boy, about twelve years old, to study orthography, reading, writing, and also wished him to give particular attention to the subject of arithmetic, for very satisfactory reasons, which he gave on trial. In addition to these studies the plaintiff at once required the child also to study geography, and took pains in aiding him to get the book for the purpose. The father on being informed of this, told the boy not to study geography, but to attend to his other studies, and the teacher was properly and fully advised of this wish of the parent, and also knew that the boy had been forbidden by his parent from taking the study at the time. But claiming and insisting that she had the right to direct and control the boy in his studies even as against the father's wishes, she commanded him to take his geography and get his lesson. And then the boy refused to obey her, and did as he was directed by his father. She resorted to force to compel obedience. All this occurred the first week of school. * * * Under the circumstances, the plaintiff had no right to punish the boy for obedience to the commands of his father in respect to the study of geography. She entirely exceeded any authority which the law gave her, and the assault upon the child was unjustifiable." 35 Wis., 59.

MAY ENTER GRADE—If a pupil wishes to enter a high school,

and he is fitted to pursue all the branches which he desires to study, he may not legally be refused, on the ground that some branch or branches are in the course, which he is not fitted to take up, provided that such branches are in no way connected with those he has elected to pursue.

A boy had omitted on account of ill-health, the study of grammar. On application was admitted to a high school. The teachers discovered that he was deficient in this study, and they required him to pass an examination for it. Not complying he was expelled. A *mandamus* was issued to compel the directors to admit him again. The directors took an appeal, and the supreme court affirmed the decision of the lower court, in the following language:

"No parent has the right to demand that the interests of the children of others shall be sacrificed for the interests of his child, and *he cannot, consequently, insist that his child shall be placed or kept in particular classes*, when by so doing others will be retarded in the advancement they would otherwise make, *or that his child shall be taught studies not in the prescribed course of the school*, or be allowed to use text-book different from that decided to be used in the school, or that he shall be allowed to adopt methods of study that interfere with others in their study. * * * * * The policy of our law has ever been to recognize the rights of the parent to determine to what extent his child shall be educated during minority, presuming that his natural affections and superior opportunities of knowing the physical and mental capabilities and future prospects of his child will insure the adoption of that course which will most effectually promote the child's welfare. The policy of the school law is only to withdraw from the parent the right to select the branches to be studied by the child to the extent that the exercises of that right would interfere with the system of instruction prescribed for the school, and its efficiency in imparting education to all entitled to share in its benefits. *No particular branch of study is compulsory upon those who attend school.*" 87 Ill., 303; 79 Ill., 567; 35 Wis., 59.

DO NOT APPLY—The foregoing decisions do not apply to the law as it stands now as to physiology and hygiene.

STRONG LANGUAGE— "In our opinion, there is a great and fatal error in this part of the charge, in asserting or assuming the law to be that upon an irreconcilable difference of views between parents and teachers as to what studies the child shall pursue, the authority of the teacher is paramount and controlling. *We do not understand that there is any recognized right to prescribe and dictate what studies the child shall pursue, regardless of the views or wishes of the parents.* From what source does the teacher derive his authority? Ordinarily, it will be conceded, the law gives the parent the exclusive right to govern and control the conduct of his minor children; it is one of the earliest and most sacred duties taught the child to know and obey his parents. The situation is truly lamentable, if the condition of the law is that he is liable to be punished by the parent for disobeying his orders in regard to his studies, and the teacher may lawfully chastise him for not obeying his parents in that particular." 35 Wis., 59.

BRANCHES IN COURSE—It seems to be accepted in most of our States and so held by the courts, that a pupil can study no branch which is not in the course of study prescribed by the school board in pursuance of law. It is also quite well settled that the pupil can study no branch of the prescribed course for which he is not fitted or prepared, of which preparation the teacher and the school board shall judge. It is generally held that under the present law, pupils shall study the particular branches of the prescribed course, unless honest objection is made by the parents. If objection is made in good faith, parents shall be allowed to select from the prescribed branches of the course for which their children are fitted those which they wish them to study; and for the exercise of such right of choice the children shall not be liable to suspension or expulsion." It must be observed that the rules do not apply to the study of physiology and hygiene as provided for in an "Act," in force July 1, 1897.

GENERAL EXERCISES—In this connection it may be well to say that school boards have the right and the power to enforce a rule requiring all pupils to take part in "general exercises" such as letter writing, composition work, and reciting quotations, etc., and all coming under the rule must comply, or subject themselves to the power of the board. It can not be urged that in such "general exercises," the pupils or the parents have the right to elect. Composition may be required by all, and a girl might be expelled for refusing to declaim, even though her father had conscientious scruples against females speaking in public." 32 Vt., 224; 59 N. H., 473; 35 Wis., 59.

"A pupil for persistent failure to have at the proper time, his rhetorical exercises, was expelled. Suit was brought for one thousand dollars damages. The decision of the lower court was affirmed that there was no cause of action, and defendant was allowed the cost of prosecution. 29 Ohio, 89.

However judicious it may be to consult the wishes of parents, the disintegrating principle of parental authority to prevent all classification and destroy all system in any school, public or private, is unknown to the law. 59 N. H., 473.

Tenth—The directors shall have power to purchase, at the expense of the district, a sufficient number of the text books used to supply children whose parents are not able to buy them. The text books bought for such purpose shall be loaned only, and the directors shall require the teacher to see that they are properly cared for and returned at the end of each term of school.

DIRECTORS AND BOARDS AUTHORIZED—Under an "Act" in force July 1, 1897, providing for the study of Physiology and Hygiene in the grades, it is held that directors and boards of education are authorized to purchase text-books for the use of the pupils, that the subject may be taught as the law contemplates.

Eleventh—The directors shall, on or before the seventh day of July, annually, deliver to the township treasurer all teachers' schedules made and certified as required by the provisions of article VII of this act, covering all time taught during the school year, ending:

June 30th, and the directors shall be personally liable to the district for any loss sustained by it, through the failure of the directors to examine and so deliver such schedules within the time fixed by law.

DIRECTORS FILE SCHEDULES—If a board of directors or board of education fail or refuse to file the schedules of their schools as directed by law, the board of school trustees are not warranted in distributing any of the public funds to such districts, and the directors are personally liable for all loss to the districts.

Twelfth—The directors shall not pay out any public money to any teacher unless such teacher shall, at the time of his or her employment, hold a certificate of qualification, obtained under the provisions of this act, covering the entire period of his or her employment.

Note—See Section 5, Article VII, an amendment to this clause, which requires certificate when teacher enters upon his duties.

Thirteenth—The directors shall not pay any public funds to any teacher unless such teacher shall have kept and furnished schedules as required by this act, and shall have satisfactorily accounted for all books, apparatus and other property of the district that he may have taken in charge.

Fourteenth—The directors shall pay teachers' wages monthly. Upon the receipt of schedules, properly certified, the directors shall at once make out and deliver to the teacher an order upon the township treasurer for the amount named in the schedule; which order shall state the rate at which the teacher is paid according to his contract, the limits of time for which the order pays, and that the directors have duly certified a schedule covering this time. But it shall not be lawful for the directors to draw an order until they have duly certified to the schedule; nor shall it be lawful for the directors, after the date of filing schedules as fixed by law, to certify any schedule not delivered to them before that date by the teacher, when such schedule is for time taught before the first of July preceding, nor to give an order in payment of the teacher's wages for the time covered by such delinquent schedule.

Fifteenth—At the annual election of directors, the directors shall cause a copy of the township treasurer's report of the financial condition of the district, provided by law, to be posted upon the front door of the building where such annual election is held.

POWERS—Sec. 27. The board of school directors shall be clothed with the following additional powers:

First—To use any funds belonging to their district, and not otherwise appropriated, for the purchase of a suitable book for their records. And the said records shall be kept in a punctual, orderly and reliable manner.

Second—Said directors may, where they deem the amount of labor done sufficient to justify it, allow the clerk of such board of directors, out of any fund not otherwise appropriated, compensation for duties actually performed.

Third—They shall have the power to dismiss a teacher for incompetency, cruelty, negligence, immorality or other sufficient cause.

NO RULE—No rule can be laid down defining just what teachers may be dismissed for, but the rule of reason and justice will most generally determine the question. The matter of discharging a teacher in "business," and must be done at a regular or special meeting of the school board, notice of which the teacher must have that he may have an opportunity of defending himself.

"In dismissing a teacher it will often happen that a school board may be in possession of sufficient reasons to justify the dismissal of a teacher, and yet a wise public policy would avoid a disclosure of them. Experience has proved that this power is not liable to abuse. School boards are reluctant to take upon themselves the responsibility of dismissing a teacher, except in extreme cases." 3 Mass., 379.

ENGLISH OPINION—There may be causes which render a man altogether unfit to continue to be a schoolmaster, which cannot be made the subject of a charge before a jury, or otherwise of actual proof. A general want of reputation in the neighborhood, the very suspicion that he has been guilty of the offences stated against him, the common belief of the truth of such charges amongst the neighbors, might ruin the well-being of the school, if the master were continued in it, although the charge itself might be untrue, and at all events the proof of the facts themselves insufficient before a jury. 6 England (Q. B.) 682.

Fourth—They shall have power to assign pupils to the several schools in the district; to admit non-residents when it can be done without prejudice to the rights of resident pupils; to fix rates of tuition; collect and pay the same to the township treasurer for the use of said district.

Fifth—They may suspend or expel pupils who may be guilty of gross disobedience or misconduct, and no action shall lie against them for such expulsion or suspension.

ON EXPULSION—The directors expelled a pupil for attending a social evening party in violation of a rule of the school. No suit for damage could be sustained.

The Supreme Court of Missouri said:

"Whether this rule was a wise one or not, the directors and teacher are not liable in an action for damages for enforcing it, even to the expulsion of the pupil who violates it. While the court might on *mandamus* to compel the board and teacher to admit a pupil thus expelled, review the action of the board and pass upon the unreasonableness of the rule—which we do not, however, decide here—yet the doctrine that the courts can do this.

is very different from that which would hold the directors liable in an action for damages for enforcing a rule honestly adopted for the maintenance of discipline in the school. That such action is not maintainable is fully established." 24 Mo., 309; 31 Mo., 533; 66 Mo., 286; 13 Ill. App., 520; 15 Ind., 73; 65 Ia., 522; 38 Me., 164; 376; 111 Md., 499; 23 Mass. (Pick.) 224; 14 N. Y., 221; 6 Cal., 94.

EXERCISES IN OTHER BUILDINGS—In some instances school exercises are held outside of the school buildings, and then the question is raised as to the power of the school board to compel the pupils to attend. It is the duty of the board to arrange for rooms and buildings to accommodate the school, hence it seems that school boards have the right to compel pupils to attend the exercises held at such places as may be provided by the school authorities.

A case occurred in the Dover, (N. H.) high school in which two girls refused to attend examination and graduation in the city hall on the ground that it was too public. The parents applied to Judge Doe for an injunction against the suspension, and the case was referred to the full bench at Concord. The application was denied on the ground "that the subject-matter was within the jurisdiction and discretion of the school authorities."

Sixth—They may provide that children under twelve (12) years of age shall not be confined in school more than four hours daily.

Seventh—They may appropriate, for the purchase of libraries and apparatus, any school funds remaining after all necessary school expenses are paid.

Eighth—When any school district owns any personal property not needed for school purposes, the directors of such district may sell such property at public or private sale, as in their judgment will be for the best interest of the district, and the proceeds of such sale shall be paid over to the treasurer of such district, for the benefit of said school district.

Ninth—They may grant special holidays whenever in their judgment such action is advisable: *Provided*, no teacher shall be required to make up the time lost by the granting of such holidays.

Tenth—They shall have the control and supervision of all school houses in their district, and may grant the temporary use of school houses when not occupied by schools, for religious meetings and Sunday schools, for evening schools and literary societies, and for such other meetings as the directors may deem proper.

Eleventh—They shall have power to decide when the school house site, or the school buildings have become unnecessary, or unsuitable, or inconvenient for a school.

Twelfth—They may borrow money, and issue bonds therefor, for building school houses, purchasing sites, repairing and im-

proving school houses, in the way and manner provided for by article IX of this act.

ELECTION NOTICE GENERAL—"Under the school law, the notice required to be given of an election for building a school house or purchasing a school site is very general, the law not requiring that any particular site should be named in the notice, or that it should state the amount to be borrowed for the purpose, or that but a single question be submitted at any one time. The power given by the statute to borrow money for the purpose of building a school house, or purchasing a school site embraces the power to purchase a school site having a school house already thereon, and such a failure to name in the notice of election, or vote, the amount of bonds to be issued, will leave the directors free to issue any amount that may be deemed necessary for the purpose of the vote, within a limit fixed by the statute, which is five per cent. of the taxable property of the school district." 98 Ill., 335.

CEASES TO BE PUBLIC SCHOOL—A school ceases to be a public school the moment it is controlled in any way by any person or persons other than the board of directors, therefore, a board can not surrender or delegate the control to anyone. A school, any part of which is under the management of others than the directors, is not entitled to any of the public funds.

RESIDENCE OF PUPILS—One of the questions arising each year in many districts is the question of residence and right to attend the school.

This question is one which the school board has the right to decide. In a few cases the matter may be a little difficult to judge, but generally easily determined.

To move into a district for the express purpose of receiving the benefits of a school will not give such person the right to the school. A child placed in some family in the district to attend school, and work around the house on Saturdays, and at evenings and mornings for board and lodging does not give a right to the school. If a part of the family should move into a district to remain for the express purpose of attending the school the board has the right to deny the children of such family admission to the school. School boards are authorized to decide questions of residence of pupils, for school purposes, and the decision is subject to reversal only by the proper court. The county superintendent has no power to hear such cases and reverse the decision of a board.

Boarding children in a district does not give such children a right to the school any more than for them to take their meals with them and eat them in the district. There is one class of young people who have no homes and go about seeking work wherever they can find it. They have no settled residence or home. Such persons should be counted and permitted to attend school in the district where they reside at the time the schools are in session. 8 Wend. 134; 30 Mo., 285; 65 Wis., 631; 23 Pick., 170.

NO ROAD TO SCHOOL—A school house is for the use of the people and if there is no public road or highway to it, the pupils

may go across private property in going to and from school. 59 Ill., 51.

NOT LIABLE—A school district is not liable for injury resulting to pupils either from the defective construction or condition of the school house, or for a dangerous condition of the school yard, but this should not excuse directors from keeping wells, walks and steps in a safe condition. 58 Ia., 462; 30 Ohio, 37; 14 Gray, 541; 145 Mass., 555.

RIGHT LOST—If on going to the school house the teacher finds the door locked against him, he should apply to the directors for admission. He abandons his contract if he does not make an effort to continue the school. 88 Ill., 553; 42 Ind., 260.

A teacher who voluntarily gives up his school, even at the request of the directors, can recover only for the time actually taught; and where a teacher is discharged and by force holds possession of the school house and continues to teach, he cannot recover wages.

A teacher who abandons his school without just and good reasons cannot recover for time taught. 27 Vt., 646.

The teacher was employed for six months and on teaching about six weeks the people became dissatisfied, only one or two pupils attended, the stove legs and the pipe were carried away from the school house, and the teacher had to close school. At the request of the school board, he held himself ready to complete his contract, but the board failed to put the house in order for school. In a suit for his pay he recovered wages for the full term. 67 Ill., 511; 24 Mo., 250; 61 Ga., 477.

TEACHER DISCHARGED—When dismissing a teacher there are no formal rules to follow. Sitting as a board they can examine into the charges in the way they may deem proper and fair to the teacher. The board should cause to appear in their record the main reason or reasons for the discharge of the teacher. 117 Ill., 257; 30 Kan., 268.

If a teacher fails to enforce such rules of the board as are reasonable, or if he closes his school without the approval of the board, or if he goes away and leaves his school in charge of another person however well qualified to teach, are good and sufficient grounds for dismissal. 88 Ill., 563.

It may be charged that a teacher does not possess the necessary qualifications to teach. In passing upon such charges, the board must consider that the teacher is not required to possess talent, tact and qualifications equal to those possessed by the most successful and eminent teachers of the country, but to fill the contract if he possesses a fair ability and attainments and uses usual diligence to discharge the duties of his office, there is not sufficient ground for discharge. 17 Ill. App., 386; 36 Ill., 71.

In New York it has been held that non-resident pupils may be admitted into the schools upon the written consent of the school board, upon such terms and conditions as the board may prescribe; and when so admitted the teacher may not refuse to instruct them.

On this point Judge Cooley says: "Whether an action will lie against a teacher for refusing to instruct those who lawfully come

to him for instruction is left in doubt by the authorities." Torts, 288.

SOLE AUTHORITY—The directors have sole authority to admit pupils or to exclude them, and the teacher must instruct the pupils admitted. This rule applies also to pupils over school age. The teacher must know for himself what the law is with reference to the power of school boards to admit non-resident pupils, and he undertakes to teach the school, knowing the law; therefore it is his legal duty to instruct all who enter the school by right or by permission.

NO AUTHORITY—Individual members of a school board have no authority to make rules, nor to give orders to teachers. Under the school law, the methods of teaching belong to the teachers. The teachers assign seats to pupils, regulate the order of recitations of classes pursuing the different studies taught in the school, and the manner of conducting the recitations. A visiting committee of the board has no right or authority to interfere with the methods of instruction pursued by the teacher, nor to give orders to the teacher, nor to interfere with the recitations, nor to conduct examinations on their own account, without advising with the teacher, nor interfere with the seating of the pupils.

Such committees at such times as it shall seem necessary and proper, may note carefully the methods pursued by the teacher, the government and discipline and report the facts to the board. If, in the opinion of the board, the condition of the school is such that in its judgment it is not for the best educational interest, then it shall call the attention of the teacher thereto.

ANNULING CERTIFICATE—If a teacher's certificate is revoked by the county superintendent of schools a contract with a school board is dissolved and at an end. On revoking a certificate the superintendent should notify the school board and the township treasurer of his action.

Because some of the patrons of the school, or even a majority of the board are dissatisfied with the teacher and not pleased with his work, yet the board has not the courage to dismiss him, or they have no valid reason for so doing, but seek to get rid of the teacher by a revocation of his certificate, the county superintendent is not authorized to revoke certificates on grounds of this kind. He may revoke for gross immorality, incompetency or inefficiency, and for the same reason the board may dismiss the teacher, which it is their duty to do. There are cases where school boards through blunder employ two teachers for the same school room, then seek relief through the county superintendent, and his power to revoke, a power he is not authorized to employ in such cases.

A teacher's certificate may not be revoked for delinquencies known at the time of granting the certificate, where no subsequent bad conduct of the kind is known to have occurred; but on the other hand it may be revoked for causes which if known at the time of issuing the certificate would have been sufficient ground for withholding it.

IMMORAL CONDUCT—A teacher may be discharged for immoral

conduct engaged in before he commences his school, if of such a character as to injure the school, or weaken the usefulness of the teacher, and exert a bad influence on the pupils. In such instance the directors would be sustained in discharging the teacher under these conditions.

"Ability to teach the branches prescribed does not alone qualify a person to teach our youth. In addition thereto he should be a person who, for his known virtue and morality is fitted to be trusted with the dearest treasures of the father and mother—the person and mind of their children. He should be entitled to and receive the entire confidence of the patron and pupil. If suspicion of vice or immorality be once entertained against a teacher, his influence for good is gone. The parent becomes distrustful, the pupil contemptuous, and the school discipline essential to success is at an end." 17 Ill. App., 347.

CONSCIENTIOUS DUTY—"A teacher doubtless, like the lawyer, surgeon, or physician, when he undertakes an employment, implicitly agrees that he will bestow upon the service a reasonable degree of learning, skill and care. When he accepts an employment as teacher in any given school, he agrees by implication that he has learning necessary to enable him to teach the branches that are taught therein as well as that he has the capacity in a reasonable degree of imparting that learning to others. He agrees also, that he will exercise a reasonable degree of care and diligence in the advancement of his pupils in thier studies, in preserving harmony, order and discipline in the school and that he will himself conform as near as may be to such reasonable rules and regulations as may be established by competent authority for the government of the school. He also agrees, as we think, by a necessary implication, that while he continues in such employment his moral conduct shall be in all respects exemplary and above reproach." 42 Ind., 200.

EXPULSION OR SUSPENSION—Among the most important and sometimes serious questions which confront school boards, is the question of expulsion or suspension of a pupil. That boards have the right to expel or suspend pupils, there is no doubt, so long as they follow reasonable rules and act from pure motives and honest purposes. Should a board go beyond its authority and act from some malicious motive then the members would be held liable.

"It may be taken as well as settled that school boards in this State can expel pupils *only* for disobedient, refractory, or incorrigibly bad conduct after all other means have failed." 95 Ill., 263.

"It is held that a school board may require a pupil to inform of another pupil guilty of a breach of the rules, and on his refusal may suspend him for the remainder of the year." 26 Ill. App., 379.

A pupil who has been suspended and uses gross vulgarity and profanity to the board on being called before it, forfeits his right if any, to reinstatement until reparation is tendered. 32 Ill. App., 300.

If the offender is incorrigible, suspension or expulsion is the only

adequate remedy. In general, no doubt, the teacher reports a case of this kind to the proper authorities for their action, if no delay will necessarily result from that course prejudicial to the best interest of the school. But the conduct of the recusant pupil may be such that his presence in the school for a day or an hour may be disastrous to the discipline of the school, and even the morals of other pupils. In such cases it seems absolutely essential to the welfare of the school that the teacher should have the power to suspend the offender at once from the privileges of the school; and he must necessarily decide for himself whether the case requires the remedy." 45 Wis., 150; 2 Ill. App., 584; 32 Vt., 224; 30 Am. Rep., 706; 133 Mass., 103.

"Pupils should not be expelled for mere accident or negligence." 21 Ill. App., 584; 43 Mch. M. W., 996; 41 Conn. 442.

It may be well to say that in Illinois and several other States it is held that school boards can not delegate the power to the teacher to expel pupils. This is a power given to boards and they can not empower others to act in their stead.

Judge Vincent in his ruling said: "We have long held the opinion that that right to exclude a pupil temporarily from school was, in the absence of law to the contrary, inherent in the teacher's office, and that the exercise of this right under some circumstances is a necessity." This view has been held by the Supreme Courts in several States.

"Teachers can not expel, but they have the right to suspend a pupil, and should report the case to the board at the earliest opportunity for action. If a teacher expels a pupil, he would be going beyond his authority and would be liable for damages." Cooley on Torts; 228.

TEACHER AND PARENT—The master is *in loco parentis*, and has such portion of the powers of the parent committed to his charge, viz.: that of restraint and coercion, as may be necessary to answer the purpose for which he is employed. Blackstone's Com., I, 453; Bishop's Com. Law., 7th ed., Sec. 882; Schouler's Domes. Relations 4th ed., Sec. 244; Addison on Torts, Wood's ed., Sec., 840; 88 Ala., 169; 4 Gray, 36; 5 Pa., 78; 45 Wis., 150.

The teacher may not punish a pupil for refusing to do what the parent has requested he be excused from doing, even when such refusal justifies the board in suspending or expelling. 69 Ind., 295; 79 Ind., 75; 50 Ia., 152.

DUTY OF SCHOOL BOARDS—It is the duty of school boards to so conduct and manage the schools that equal rights and privileges are accorded to all the pupils, without any partiality or discrimination. To do this it is their first duty to provide a sufficient number of schools or rooms to accommodate the children. Directors are not authorized to force sixty to seventy pupils into one room that will not accommodate three dozen. If one room or one house will not accommodate the pupils of the district, the directors should arrange for building or renting others. If the people do not authorize the board to build, it is their duty to rent. To enable boards to rent and provide for more school

facilities, the law allows them to rent a house outside of the district, if by so doing they can provide their people with more and better opportunities to get the benefits of school. 19 Ill. App., 48.

LEFT HANDED PUPILS—A rule compelling left-handed pupils to use the right hand is of doubtful validity. The matter is thus discussed by the N. Y. State Dept.: "As to the right of a teacher to require left-handed pupils to write with the right hand, the Department will not lay down any general rule upon the subject. If left-handed children can be taught to use the right hand in writing, it should be done; but when a child has always used his left hand, and has reached the age of 12 or 14 years, it seems very doubtful whether it is practicable to change the habit, and therefore, doubtful whether the teacher should insist upon it."

CANNOT ENFORCE—A rule requiring pupils to sweep the house, or to build fires, or to bring in wood or coal can not be enforced legally by a school board or teacher.

" * * * * * Much discussion must be left to these boards as to the nature of the rules which are prescribed. Yet it cannot be fairly claimed that the boards are uncontrolled in the exercise of their discretion and judgment upon the subject. The rules and regulations made must be reasonable and proper, or in the language of the statute: *needful*; for the government, good order, and efficiency of the schools—such as will best advance the pupils in their studies; tend to their education and mental improvement, and promote their interest and welfare. But the rules and regulations must relate to these objects. The boards are not at liberty to adopt rules relating to other objects according to their whims, humor and fancy, and make a disobedience of such a rule by a pupil cause his suspension or expulsion. We, therefore, think the rule or regulation requiring the pupil to bring up wood for use in the school room was one which the board had no right to make and enforce. 63 Wis., 234.

NOT PUNISHED—A pupil may not be punished in school for not having prepared lessons at home, especially when forbidden by the parent to do so. "Ordinarilly, an important part of a child's education is the study at home, but here the child has been punished for disobedience to an order which the master had no right to make." 13 England (Q. B.) 225.

NOT EXPELLED—"Nor can a pupil be expelled for attending a social party contrary to the rules of the school, or for reflecting on the school board in a news paper article." 24 Mo., 309; 31 Mo., 533; 30 Ia., 429.

WAS EXPELLED—It has been held in Massachusetts that a pupil was rightly expelled for acts of immorality and licentiousness committed out of school. 8 Cush. 198.

CONDUCT ON ROAD—In some school districts it is sought to make rules governing the conduct of pupils on the way to and from school, and inflict punishment for such violations. Some of the courts sustain such rules. All feel that it is against the best interest of the schools and society for pupils while on the road to or from

school, to engage in the use of bad language, rude conduct, fighting, etc. 85 Mo., 485; 8 Cush., 160; 32 Vt., 120.

"On the one hand, there is certainly some limit to the jurisdiction of the school board and teachers, out of school hours and out of the school house; and on the other hand it is equally plain, if their jurisdiction does not commence until the minute for opening school has arrived, nor until the pupil has passed within the door of the school-room, that all the authority left to them in regard to some of the most sacred objects for which our schools were instituted would be of little avail. To what purpose would the teacher prohibit profane or obscene language among his scholars within the school-room and during school hours, if they could indulge in it with impurity and to any extent of wantonness as soon as the hour for dismissing school should arrive? To what purpose would he forbid quarrelling and fighting among the scholars, at recess, if they could engage in single combat or marshal themselves into hostile parties for a general encounter within the precincts of the school house, within the next five minutes after the school should be closed? *And as to what purpose would he repress insolence to himself, if a scholar as soon as he has passed the threshold, might shake his fist in the teacher's face, and challenge him to personal combat?* These considerations would seem to show there must be a portion of time, both before the school commences, and after it closes, and also a portion of space between the door of the school house and that of the parental mansion, where the jurisdiction of the parent on one side and the school board and teacher on the other is concurrent." 10 Mass., Report (Mann.)

An application of law and the rules of society ought to enforce obedience to law, and regulate the conduct of all individuals, and if necessary enforce the penalties for violations. The school teachers have enough to do without assuming police duties and exercising duties that belong to and should be performed by others. It is the duty of all to work for the efficiency of the schools, and not burden the school officers by leaving them to exercise authority and enforce law and regulations which more properly belong to others. School boards should use care and not go beyond their rights or interfere with the right of parents." 66 Mo., 286.

ENFORCE DISCIPLINE—A legal right to enforce discipline by means of corporal punishment exists in all schools where it has not been expressly forbidden by statute or by regulation. This is conferred by usage and confirmed by legal decisions. Blackstone's Com. I, 453; 45 Ia., 248, 1 City Hall 55; 68 N. C., 322; 31 Am. Dec., 416; 2 N. C., 50; 5 Pa., 78; 3 Tenn., 455; 19 Vt., 102, 180; 45 Wis., 150; 28 Vt., 575; 32 Vt. 120; 4 England 656.

SHOULD BE DISCIPLINED—As to any misdemeanors of which the pupils in going to and from the school to their homes, which directly and injuriously affect the order, discipline and government of the school and the proper training of children, such as willful tardiness, truancy, fighting and quarrelling with other children, the use of obscene and profane language, rude conduct towards older people, etc., there can be no serious doubt or question that these

come within the jurisdiction of the teacher and are matters for discipline if the public schools are to perform their proper functions.

HOME AND SCHOOL—State Superintendent Inglis in his biennial report said: "The teacher's work is not only supplementary in character to the home training, but corrective as well. Not only must he augment, as well as foster, the good in the child, but he must as certainly purge away the evil in heart and head. Good habits must be preserved and bad ones corrected.

The power to control the action and direct the thought of the child is delegated to the teacher by the parent. The teacher is said to stand *in loco parentis*, and is so recognized by the law. Whether this be true in every respect, is not our province to determine, but one thing is true—that many assuming the role of teacher, whether comprehensively or not, have not appreciated their true relation to the home, and in many instances have been a curse, rather than a blessing to the child. They have taught (perhaps) the branches of an education, but have not led the way to a broader and higher life; they have imparted the forms of knowledge without the power. The intellectual training is not all of the teacher's duty to the child; his relation is yet closer. Dr. Webster says: "The punishment for the faults and offences of children by the parents is by virtue of the right of government with which the parent is vested by God himself." So following in the line of divine law, the right to punish the child for offences while at school is, by the common law, vested in the teacher as representative of the parent for the time being." Report 1896, 129.

AN OLD LAW—Excellent doctrine is found in an old law of Massachusetts which reads as follows: "It shall be the duty of the president, professor, and tutor of the University at Cambridge and of the several colleges, of all preceptors and teachers of academies, and all other instructors of youth, to exert their best endeavors to impress on the minds of children and youth committed to their care and instruction the principles of piety and justice, and a sacred regard to truth; love of their country, humanity and universal benevolence; sobriety, industry and frugality; chastity, moderation and temperance; and those other virtues which are the ornament of human society and the basis upon which a republican constitution is founded; and it shall be the duty of such instructors to endeavor to lead their pupils, as their ages and capacities will admit, into a clear understanding of the tendency of the above-mentioned virtues to preserve and perfect a republican constitution, and secure the blessings of liberty, as well as to promote their future happiness, and also to point out to them the evil tendency of the opposite views." 38 Mass. Report, 147.

RULES FOR SCHOOL—The legislature very properly clothed school directors and boards of education with full authority to make and enforce rules and regulations for the government and management of schools. The rule of law and the broad construction given it by the courts are wise and calculated to materially aid those who assume the duties of school directors in the discharge of their official duties.

"In the school, as in the family, there exists on the part of the pupil the obligations of obedience to lawful commands, subordination, civil deportment, respect for the rights of other pupils, and fidelity to duty. The obligations are inherent in any proper school system, and constitute, so to speak, the common law of the school. Every pupil is presumed to know this law, and is subject to it whether it has or has not been re-enacted by the district board in the form of written rules and regulations. Indeed, it would seem impossible to form rules which would cover all cases of insubordination and all acts of vicious tendency which the teacher is liable to encounter daily and hourly" 45 Wis., 150; 87 Ill., 303; 105 Mass., 475; 19 N. H., 170.

In this decision of the court, it is clearly stated that boards and teachers are not required to prescribe a rule for each and every offence that may be committed by the pupils.

In adopting and enforcing rules, directors and teachers are to inquire if the rules are "reasonable" and are they "calculated to promote the objects of the law." "In the performance of their duty in carrying certain rules and regulations for the government of the schools in their district, and enforce them. They may, no doubt, classify the scholars, regulate their studies and their deportment, the hours to be taught, besides the performance of other duties necessary to promote the success and secure the well being of such schools. But all such rules and regulations must be reasonable and calculated to promote the objects of the law. * * * The law having conferred upon each child of proper age the right to be taught the enumerated branches, and rule or regulation which, by its enforcement, would tend to hinder or deprive the child of this right can not be sustained. All rules must be adopted to the promotion and accomplishment of this great and paramount object of law. 79 Ill., 567; 111 Ind., 472.

RETURNED HOME—For conduct committed by the child after his return home from school, we think the parents, and they alone, have the power to punish. The misbehavior must not have merely a remote and indirect tendency to injure the school. All improper conduct or language may perhaps have by influence an example, a remote tendency of that kind. But the tendency of the acts so done out of the teacher's supervision, for which he may punish, must be direct and immediate in bearing upon the welfare of the school, or the authority of the master and the respect due him.

"Acts done to injure or deface the school-room, to destroy the books or apparatus for instruction, or the instruments of punishment of the master; language used to other scholars to stir up disorder and insubordination, or to heap odium and disgrace upon master; writings and pictures placed so as to suggest evil and corrupt language, images and thoughts to the youth who frequent the school—all or singular acts tend directly to impair the usefulness of the schools, the welfare of the scholars, and the authority of the teacher. By common consent and by uniform custom in our New England schools, the master has always been deemed to have the right to punish such offences. Such power is essential to the preservation of

order, decency, decorum, and good government in schools." 32 Vt., 114.

UNPARDONABLE—Boxing the ears and striking pupils on any part of the head may be classed as most unpardonable punishments. If a pupil attacks the teacher, then the master will be sustained in defending himself by any blows that may be necessary.

"The law presumes that a school teacher acts with justice, and it must be shown by evidence that he has not so acted." Cooley's Const. Limt., 421.

ATTENDING BY PERMISSION—If pupils attend a school by permission of the school board, such pupils are subject to the same rules and punishment as those who attend by right of age and residence. All are governed by the same rule; those who pay tuition, whether over twenty-one years of age or not, and attend by permission of the board. If a pupil over twenty-one years of age attends school, he should even comply with a rule requiring pupils to satisfy the teacher in some way as to his absence. This should be required, at least, that all who attend the school may stand equally before the law. 27 Me., 266; 45 Ia., 248; 35 Wis., 59.

A teacher has been sustained for whipping a woman pupil twenty-one years old for violation of the rules of the school, though she attended at her own instance and by the permission of the school board. 4 Ia., 248.

TREND OF OPINION—It may not be amiss to observe that public sentiment does not now tolerate such corporal punishment in the public schools as was formerly thought permissible and even necessary. Every year this tendency becomes more and more marked, so much so that it requires on the part of the teachers judgment, skill and common sense that they may govern and control their pupils without resort to the rod.

The prevailing idea and the trend of legislation and the law appear to be such as to concede but little authority over the children on the road to and from the school, yet there is no doubt as to the advisability of the teacher and the parents acting together in this. But a moments reflection and consideration will at once disclose the wisdom of such oversight and control carefully and judiciously performed by a careful and considerate teacher. This duty ought to be imposed upon him by statute.

CALLING HELP—The law will justify and the courts sustain the teacher in summoning help to enable him to punish a pupil for disobedience and bad conduct. In a New York case, where the teacher called to his assistance two of the larger pupils of the school to aid him in punishing a boy about eighteen years old, the two boys held him down while the teacher whipped him with a ruler. The court sustained the teacher.

BEST DEFENCE—The teacher's best defence against insulting and disturbing visits of parents and others is found in such law as the following:

"School officers as such have certain rights in the school house, but the law will not allow them to interfere with the teacher while he keeps strictly within the line of his duty. Having been legally put in possession, he can hold it for the purpose and the time agreed upon, and no parent or individual officer has any right to enter and disturb him in the lawful performance of his duties. If persons do so enter, he should order them out, and if they refuse to go, on being requested to do so, he may use such force as is necessary to eject them. And if he finds that he is unable to put them out himself, he may call assistance,

and if no more force is employed than is actually necessary to remove the intruder, the law will justify the teacher's acts and the acts of those who assisted him." Wharton Am. Crim. Law, 1256.

"All pupils will be required to bring written excuses from their parents to the teacher for absence, and such excuses must be satisfactory and reasonable, otherwise they will not be granted."

"The rule does not of itself indicate any sinister or malevolent purpose or wicked force on the part of the directors. It does not trench upon the rights or dignity of any one. We instantly and properly repel any encroachment upon our rights as citizens. * * * * *

But I am utterly unable to understand how this simple rule or regulation, requiring the pupil in certain cases to bring a written excuse from its parents to the teacher, is an attack upon, or an abridgement of our inalienable rights as citizens of this free country." 13 Ill. App., 520.

ACTS JUDICIALLY—"In deciding questions of discipline the teacher acts judicially, and is not to be held liable, either civilly or criminally, unless he has acted with express malice and been guilty of such excess in punishment that malice must be implied. Within the sphere of his authority the master is judge where correction is required, and the degree of correction necessary, and like others intrusted with a discretion, he cannot be made penally responsible for error of judgment, but only for wickedness of purpose." Potter's "Devorris," 518.

AUTHORITY SUSTAINED—A teacher kept a school for small children, and punished one of them, about seven years old, with a rod to such an extent as to leave marks, all of which were likely to pass away in a short time and leave no permanent injury. In the lower court the teacher was held to be guilty of inflicting excessive punishment, and the case was taken to the higher court for its consideration. In rendering the opinion, the court held:

"That teachers exceed their limits of authority when they cause lasting mischief, but act within the limits of it when they inflict temporary pain. In this case the marks were temporary, and in a short time disappeared. No permanent injury was done to the child. The only appearance that could warrant the belief or suspicion that the correction *threatened* permanent injury were the bruises on the neck and arms; and these, to say the least, were too equivocal to justify the court in assuming that they did threaten such mischief. We think, also, that the jury should have been further instructed, that however severe the pain inflicted, and however in their judgment, it might seem disproportionate to the alleged negligence or offence of so young, tender child, yet, if it did not tend to produce or threaten lasting mischief, it was their duty to acquit the defendant, unless the facts testified induced a conviction in their minds that the defendant did not act honestly in the performance of duty, according to her sense of right, but under the pretense of duty was gratifying malice." 2 N. C., (D. & Bat.) 365.

CORPORAL PUNISHMENT—"A principal in one of the Buffalo, N. Y., schools saw two of his pupils, after school, fighting outside the school premises, and sent a messenger commanding them to desist, and come to him at once. They refused, and the next day when they came to school he punished them. He was arrested for assault and battery, and brought before Justice King, who discharged him, ruling that one of the most important duties of teachers is to train and qualify their pupils to become useful and law-abiding members of society; this duty cannot be effectively performed without ability to command obedience, and reform bad habits; to enable the teacher to exercise this salutary

sway, he is armed with the power of the parent; that is, he stands *in loco parentis*, and is entitled in law and in reason to employ the means necessary to answer the purpose for which he is employed; and finally that the teacher has jurisdiction over the acts of the pupils coming to and going from school, if those acts tend to subvert the best interest, or the character of the school, all of which is well settled by common sense and law." School Bulletin, Vol. 8, 136.

In most states it is considered for the conduct of pupils on the road to or from school, the authority of the teacher is regarded as concurrent with that of the parent. 30 Ia., 429; 31 Ia., 562; 85 Mo., 485; 23 Tex., 386; 4 Tex., (S. W.) 122; 32 Vt., 120.

The supreme court of Vermont in that very noted decision on the question of the teacher's authority over the pupils to and from school used this language:

* * * * * "That whatever in the misconduct of pupils under like circumstances, as to time and place, etc., has a direct tendency to injure the school in its important interests, is properly a subject of discipline in the school." 32 Vt., 114.

OBJECTIONS—It is objected to the foregoing views that the responsibilities of the teacher are thus enlarged to an improper extent, and too much is imposed upon those who undertake to teach our children. But in answer to this argument, it is right to say that the construction must be reasonable. It is not presumed that the teacher is to follow his pupils to their homes, and while on the road keep up a close inspection. The extent of his duty is to take notice of the misconduct of the pupils, as may come to his knowledge, either through proper means or his own observation, being careful not to use doubtful evidence.

The deportment of pupils upon any part of the premises connected with the school house, or in the immediate vicinity of the same, whether within the regular school hours or before or after them, is properly a matter over which the teacher has authority and jurisdiction. Any unbecoming conduct or disturbance on the part of the pupils within range injuriously affecting the interest of the school are the objects of punishment and correction.

ABSENCE INTERFERES WITH DISCIPLINE—Absence from school is a direct interference with both the discipline and progress in the work, and reasonable regulations against it may be enforced. A pupil may be chastised by the teacher for refusing to give an excuse for absence or tardiness without leave.

It is not unreasonable to exact excuses from parents in cases of tardiness or absence of their children. 27 Vt., 755; 69 Ind., 295.

NO RIGHT—Neither a teacher nor a school board has any legal right to punish a pupil for refusing to confess a crime for which he might be punished at law.

WEAK-MINDED PUPILS—A pupil should not be excluded from school on the ground that he is idiotic and lacking in capacity for education, and unable to care for himself.

The true rule in a case of this kind is that the pupil should be allowed the privilege of the school, unless his presence is obnoxious to others, and unless he is so weak-minded as to be incapable of caring for himself and receiving the rudiments of an education. The school should help such children if it can do so without detriment to the interest of other children. Not the mere convenience and pleasure of the teacher is to be considered, but the efficiency of the school. Such pupil may be some annoyance, and a little unusual care and attention,

yet he should be allowed to continue in the school, unless his presence will interfere with and injure it.

RESTRAINING HAND—There are many advocates among teachers and parents, who hold that children should be permitted to develop without restraint. Such logic will not make successful schools, nor will the product of the schools of the people be men and women of the higher and better type of citizens, if the restraining hand of parent, teacher and the school is not felt by the youth. Faddists and savages advocate no restraint.

MUST EXERCISE JUDGMENT—"In the performance of the duties imposed by law upon school directors, they must exercise judgment and discretion. What rules and regulations will best promote the interest of the school under their immediate control, and what branches shall be taught and what text books shall be used, are matters left to the determination of directors, and must be settled by them from the best lights they can obtain from any source, keeping always in view the highest good of the whole school. Good order can only be maintained by enforcing discipline, and that power is largely committed to the directors."

"The rule is certainly a reasonable one. A mere mistake in judgment, either as to their duties under the law or as to facts submitted to them, ought not to subject such officers to an action. They may judge wrongly, and so may a court or other tribunal, but the party complaining can have no action when such officers acted in good faith and in the line of what they think is honestly their duty. Any other rule might work great hardship to honest men, who, with the best of motives, have faithfully endeavored to perform the duties of these inferior offices. Although of the utmost importance to the public, no considerable emoluments are attached to these minor offices, and the duties are usually performed by persons sincerely desiring to do good for their neighbors, without any expectation of personal gains, and it would be a very harsh rule that would subject such officers to an action for damages for every mistake they may make in the honest, faithful discharge of their official duties as they understand them. It is not enough to aver the action of such officers was erroneous, but it must be averred and proved that such action was taken in bad faith, either wantonly or maliciously. If in the discharge of their official duties, such officers simply err, it is what other tribunals invested with discretionary powers are liable to do." 95 Ill., 263; 13 Ill., App., 520; 111 Ind., 223.

HAS RIGHT—"The schoolmaster has a right to give moderate corporal correction to his pupils for disobedience to his lawful commands for negligence or insolent conduct. A schoolmaster, *in his own right*, and not by delegation, possesses this authority." Reeves's Domes. Relations, 534.

CORPORAL PUNISHMENT—Many who have not made it some study, hold that the teacher is not authorized to inflict corporal punishment. We presume there is not a county in the state in which this question is not raised annually, and quite frequently taken into the minor courts and in some instances carried to a circuit court.

In some towns and districts, school boards have abolished corporal punishment, but we doubt the wisdom of the rule. We give extracts from the decisions to show the views that are taken by the higher courts as to corporal punishment in the common schools:

We first quote from "First Blackstone," 453, in which he says: "The right of the parent to keep his child in order and obedience is secured by the common law. He may lawfully correct his child, being

under age, in a reasonable manner, for this is for the benefit of his education. He may delegate, also, a part of his parental authority to the tutor or schoolmaster of his child, who is then *in loco parentis*, and has such portion of the power of the parent committed to his charge—viz: that of restraint and correction—as may be necessary to answer the purpose for which he is employed.” Blackstone I., 453.

“The law, as we deem it to exist, is this: A schoolmaster has the right to inflict reasonable corporal punishment. He must exercise reasonable judgment and discretion in determining when to punish, and to what extent. In determining upon what is a reasonable punishment various considerations must be regarded—the nature of the offence, the apparent motive and disposition of the offender, the influence of his example and conduct upon others, and the age, sex, strength, size of the pupil to be punished. Among reasonable persons much difference prevails as to the circumstances which justify the infliction of punishment and the extent to which it may properly be administered. On account of this difference of opinion and the difficulty which exists in determining what is a reasonable punishment, and the advantage which the master has by being on the spot to know all the circumstances—the manner, look, tone, gesture and language of the offender (which is not always easily described)—and thus to form a correct opinion as to the necessity and extent of the punishment considerable allowance should be made to the teacher by way of protecting him in the exercise of his discretion. Especially should he be allowed this indulgence when he appears to have acted from good motives and not from anger or malice. Hence the teacher is not to be held liable on the ground of excess of punishment, unless the punishment is *clearly* excessive, and would be so held in the general judgment of reasonable men. If the punishment be thus *clearly* excessive, then the master should be held liable for such excess, though he acted from good motives in inflicting the punishment, and in his own judgment considered it necessary and not excessive. But if there is any reasonable doubt whether the punishment was excessive, the master should have the benefit of the doubt.” 78 Me., 509; 64 N. H., 297; 32 Vt., 114.

“As they (parents) are bound to maintain and educate their children, the law has given them the right to such authority, and, in support of that authority, a right to the exercise of such discipline as may be requisite for the discharge of their sacred trust. The power allowed by law to the parent over the person of the child may be delegated to a tutor or instructor, the better to accomplish the purpose of education. Although the town school is instituted by the authority of the statute, the children are to be considered as put in charge of the instructor for the same purpose, and he is clothed with the same power as when he is directly employed by the parents. The power of the parent to restrain and coerce obedience in children cannot be doubted, and it has seldom or never been denied. The power delegated to the master by the parent must be accompanied for the time being with the same right, as, incidental, or the object sought must fail of accomplishment.” Second Kent’s Com., 169.

“The practice, which has generally prevailed in our town schools since the settlement of the country, has been in accordance with the law thus expressed, (see Blackstone I., 453; Kent’s Com. II., 169,) and resort has been had to personal chastisement when milder means of restraint have been unavailing.” 27 Me., 266.

“The law confides to school teachers a discretionary power in the infliction of corporal punishment upon their pupils, and will not hold them responsible, criminally, unless the punishment be such as to occa-

sion permanent injury to the child, or be inflicted merely to gratify their own evil passion." Wharton's *Crim. Law*, 5th ed., I., 453.

The eminent educator, Horace Mann, in speaking of corporal punishment in one of his reports on the schools of Massachusetts, says: "It should be reserved for baser faults. It is a course remedy, and should be employed upon the courser sins of our animal nature, and, when employed at all, should be administered in strong doses."

No doubt in the present state of society, there are cases in many of our schools in which a dose of "rod oil," well and properly administered, is good for a rude urchin.

NEW YORK RULING—"A pupil refused to take the seat which he was directed to take. The teacher came toward the boy, intending to compel him by force to take the seat assigned to him, and, as the teacher approached, the boy struck at him several times. The teacher caught the boy, and with force put him into his seat, the boy mean time kicking, striking, yelling, and swearing. To stop this outrageous and unseemly noise, the teacher resorted to the most effectual measure at his command; he intercepted the passage of air between the lungs and vocal organs long enough to suppress the disturbance, but not long enough to injure the boy. But the boy was not subdued by any such gentle restraint, for no sooner was he left alone than he ran out of doors. The teacher pursued and caught him, and brought him back to the school room, not, it appears, without some considerable force, for the boy struggled with all his strength; and it would really not be strange if in the struggle he received some severe blows. For this the superintendent is asked to annul the certificate of the teacher. I decline to do anything of the kind. The teacher, in the matter of the boy, did no more than he was compelled to do; he might have done much more, and still be acquitted of inflicting cruel and unusual punishment. It is not cruel, and if it was unusual, it was only so because the conduct of the boy was unusual."

OBJECTS OF PUNISHMENT—"The legal objects and purposes of punishment in schools are like the objects and purposes of the state in punishing the citizens. * * * * * First, the reformation and highest good of the pupil; second, the enforcement and maintenance of correct discipline in school; and, third, as an example to like evil-doers. And in no case can the punishment be justifiable, unless it is inflicted for some definite offence or offences which the pupil has committed, and the pupil is given to understand what he or she is being punished for. And if you find from the evidence that the punishment in this case was inflicted upon the prosecutrix without her knowing what she was being punished for, then the punishment was wrongful on the part of the defendant. Punishment inflicted, when the reason of it is unknown to the punished, is subversive, and not promotive of the true objects of punishment and cannot be justified."

These instructions, with others, were approved by the court. 50 Ia., 145.

Punishment must not be administered by the teacher in malice, and for the purpose of gratifying a malicious feeling, but only in a proper spirit, with the sole object of maintaining his authority and preserving the order and decorum of his school. 4th Ed. *Reeves's Dom. Rel.*, 357.

In a case where the teacher was tried for whipping a boy for addressing his teacher in indecent and unbecoming language, the court said: "There can be no doubt that the boy deserved a sound punishment. He was old enough to know the meaning of the words and the gross impropriety of using them to any teacher, and especially to a lady. And when the offence was undoubtedly committed, and was

willful and indecent, and the offender was no longer a mere child, *neither courts nor juries* should be quick to criticise an excess of severity into which the proper indignation of the teacher may have led him." Extract from New York case.

LEGAL OPINIONS—"We hold, therefore, that it may be laid down as a general rule, that teachers exceed the limits of their authority when they cause lasting mischief; but act within the limits of it when they inflict temporary pain

"Within the sphere of this authority the master is the judge when correction is required, and of the degree of correction necessary; and like all others intrusted with a discretion, he cannot be made personally responsible for error of judgment, but only for wickedness of purpose.

"But the master may be punishable when he does not transcend the powers granted, if he grossly abuses them. If he uses his authority as a cover for malice, and, under pretence of administering correction, gratify his own bad passions; the mask of the judge shall be taken off, and he will stand amendable to justice as an individual not vested with judicial power." 2 Dev. & Bat., 365.

MALICE MUST BE SHOWN—A special teacher in one of the Massachusetts schools while in the school room for an hour lost her pocket-book. Among the pupils who had an opportunity to take it and to whom suspicion was directed was a girl. She was searched by the regular and the special teacher, with the consent of the principal. The child removed most of her clothing, and, as nothing was found, she was declared innocent. The principal and teachers were sued for \$4000. The case was fought with great vigor before Judge Sherman, who ruled that there were but two points for the jury to pass upon: First, was there any malice on the part of the teachers; second, were there suspicious circumstances justifying an effort to learn whether or not the child had the pocketbook. The verdict was that no malice had been shown, and that circumstances justified the teachers in ascertaining whether or not the pupil had the lost article. Journal of Education, Dec. 1900.

"If in inflicting punishment upon his pupil, he went beyond the limit of moderate castigation, and, either in the mode or degree of correction, was guilty of any unreasonable and disproportionate violence or force, he was clearly liable for such excess in a criminal prosecution. Russell on Crimes, (7th Am. Ed.) 755. It is undoubtedly true that, in order to support an indictment for an assault and battery, it is necessary to show that it was committed *extentione*, and that if the criminal intent is wanting the offence is not made out. But this intent is always inferred from the unlawful act. The unreasonable and excessive use of force on the person of another being proved, the wrongful intent is a necessary and legitimate conclusion where the act was designedly committed, and, because purposely inflicted, without justification or excuse. Whether, under all the facts, the punishment of the pupil is excessive, must be left to the jury." 4 Gray, 36.

"In inflicting such punishment the teacher must exercise sound judgment and discretion, and must adapt it not only to the offence, but to the offender. * * * * * Of course, the teacher, in inflicting such punishment, must not exceed the bounds of moderation. No precise rule can be laid down as to what shall be considered excessive or unreasonable punishment. Each case must depend upon its own circumstances. And we think it equally clear that he should also take into consideration the mental and moral qualities of the pupil,

and, as indicative of these, his general behavior in school and his attitude toward his teacher become proper subjects of consideration.

"We think, therefore, that the court acted properly in admitting evidence of the prior and habitual misconduct of the plaintiff, and that it was perfectly proper for the defendant, in chastising him to consider not merely the immediate offence which had called for the punishment, but the past offences that aggravated the present one, and showed the plaintiff to have been habitually refractory and disobedient. Nor was it necessary that the teacher should at the time of inflicting the punishment remind the pupil of his past and accumulating offences. The pupil knew them well enough, without having them freshly brought to his notice." 53 Conn., 481.

A teacher has been sustained for whipping a pupil for coughing in school, where, in his judgment, it was voluntary and for the purpose of disturbing and interrupting the school. 64 N. H., 297.

A member of a board of education or of a board of directors is clothed with authority to put a pupil out of the school room if the pupil should, while the officer is at the school in the discharge of some duties connected with the school, conduct himself in an unbecoming and insulting manner, either in words or acts towards the officer. "The defendant being at the school house performing certain duties connected with the school, called the attention of the plaintiff to certain acts not especially culpable in character, which he acknowledged he had committed. His bearing and manner were insolent and offensive, and the language in which he indulged was grossly profane. Such language, reprehensible at all times, should not have been allowed to pass with impunity from a school boy of the older class, within the walls of a school house in the presence and hearing of younger pupils. After being told to leave, he so conducted that it was proper to remove him, no unnecessary force being used to attain that object." 41 Conn., 442; 27 Vt., 755; 113 Ind., 276.

EXCEEDED AUTHORITY—A boy about thirteen years old in a school in Wayne county, Illinois, failed to learn his lesson in grammar. The teacher directed him to take off his coat to be punished by whipping. The boy refused and was expelled from the school. To say that the teacher went beyond all authority does not express it in this case. The law will not uphold a teacher in so barbarous an act as compelling a pupil to take off his clothing and be whipped for failing to learn his lesson. Such an act would most certainly make the teacher liable to a fine, and there is scarcely a court in Christendom that would not impose a fine if a teacher was brought before it charged with such conduct and treatment of the pupils in his charge.

COURT INSTRUCTION—"The directors of a school district are authorized by law to adopt and enforce all necessary rules and regulations for the government and management of the school or schools in their district, and to suspend or expel pupils from such schools for disobedient conduct; and while it is true that the law secures to every child, of proper age, the right to attend and receive instruction at our public schools, yet that right must be so exercised, by each particular child, as not to interfere with the full enjoyment of the same right by every other child. No child can be said to have exclusive right to attend our public schools, but all children of proper age have common right to attend them, subject, however, to such necessary rules and regulations as the directors of the school may see fit to make; and if parents of any particular child see fit to make rules and regulations for such child which shall conflict with the necessary rules and regulations made by the directors for the government of the school where such

child has a right to attend, then the necessary rules and regulations, so made by the directors, must govern; and if such child, while in attendance upon school, persists in obeying the conflicting rules so made by the parents, and thereby disobeying the rules so made by the directors, the latter have the right either to expel or suspend such child from the school.

"If a rule made by a school board is a reasonable one, and is calculated to improve the school, and secure punctuality and promptness in the attendance of the pupils, then the directors are exercising their lawful powers in making such a rule; and they have the right to compel obedience to such rule, by all pupils attending the schools in their district, and to suspend or expel any pupil who may refuse to obey such rules, provided such suspension may, in their judgment, be necessary for the welfare of the schools under their control.

It is true that parents have a paramount right to control their children, and to make such rules for their government as they may deem necessary; but if parents desire their children to enjoy the benefits of our public schools, they should not make such rules for the government of their children as will compel the children to disobey the necessary rules and regulations made by the directors of the school where the children have the right to attend.

If a board of directors, in the lawful exercise of powers conferred by law, expel a pupil from their school, and the scholar so expelled refuses to leave the school room, and persists in defying and disregarding the just and legal authority of the board, such pupil may be ejected by force from the school, and it makes no difference whether the defiance and disregard of the authority of the board arises from the pupil's own willingness and stubbornness or from orders or commands given to such pupil by his or her parents.

Before the jury can find for the plaintiff, they must find, by a preponderance of evidence, that either the said plaintiff was not tardy in her attendance upon school, or that the said rule concerning tardiness was unnecessary; * * * * *

And the jury are instructed, that the fact that the parents of the said plaintiff were either ignorant of the existence of such rule, or refuse to furnish her with a written statement or excuse required by such rule, can furnish no excuse to said plaintiff for disobeying or disregarding it; for, if she knew of the rule, it was her duty to inform her parents of it, and it was then the duty of the parents to enable the child to comply with the rule, by furnishing for her the excuse or statement required of them."

The above instructions were given by the Coles County (Ill.) Circuit Court to the jury in a suit in trespass against the school board and the city superintendent for expelling a young lady from school for refusing to furnish an excuse for absence.

TREND OF OPINION—No doubt public opinion is changing on the matter of corporal punishment in the schools; at least the trend of sentiment points that way, as the language of the court shows in the following opinion taken from an Indiana report:

"In one respect the tendency of the rod is so evidently evil that it might perhaps be arrested on the ground of public policy. The practice has an inherent proneness to abuse. The very act of whipping engenders passion, and very generally leads to excess. Where one or two stripes only were at first intended, several usually follow, each increasing in vigor as the act of striking influences the passions. Hence, the spirit of the law is, and the leaning of the courts should be, to discountenance a practice which tends to excite human passions to

heated and excessive action, ending in abuse and breaches of the peace. * * * * * The very act of resorting to the rod demonstrates the incapacity of the teacher for one of the most important parts of his vocation—namely, school government. For such a teacher the merceries of the republic are not the proper element.” 15 Ind., 73.

TENDENCY—Compulsory laws have a tendency to modify the powers of teachers and school boards in some degree, and in time, no doubt, will bring some decisions that are not fully in accord with those that have been rendered under former laws.

As one result of the compulsory laws, the “truant school” or “parental school” will take its place as a part of the public school system, as it is now in some of the states. The following extract indicates and shows that a wide range of changes may easily come about:

The most serious punishment which can be inflicted by a master [school board] is expulsion from the school. It is necessary for the master [the board] to have such power as a last resort in case of incorrigible misconduct, and also for the protection of his other charges (pupils) from the evil influence of an unusually vicious pupil. *Expulsion, however, cannot be inflicted by the master of a public school, for the attendance of a child at such school is compulsory by law, and, unless the child be guilty of an offence justifying his being sent to a reformatory or industrial school, his expulsion from a public school would imply, most probably, the entire cessation of his education.* Also when parents are compelled to send their children to school under the provisions of the “Elementary Education Acts,” they are only excused from sending them to a public school for certain reasons, none of which is that the child has been expelled; therefore, if a child could be expelled, we should have the father in an awkward position of being liable to a penalty for not causing his child to attend school, to which the master [the board] of the school refuses to admit the child. Disney’s Law Relating to Schoolmasters.

BAD PRACTICE—It is sometimes the practice of a school board to employ the principal teacher and allow him to employ his assistant. Especially have we noticed this in schools where there are two teachers for the school. The practice, to say the least, is illegal and against the best interest of the school. Each teacher should make his contract with the school board, and should be responsible to the board alone. 88 Ill., 563; 29 Ohio, S., 161.

TEACHER AND PUPIL—A pupil has no right of action against a teacher for neglecting or refusing to hear his lesson or declining to aid the pupil in the preparation of the same. 2 Ill., 584.

SCHOOL MONTH—In this state the law makes the school month a calendar month, and should the school board and the teacher make a different contract, then the teacher is really hired by the day, and his pay is so computed. It takes two parties at least to make a contract, and no contract is complete without the consent of both parties.

DOES NOT BIND—A vote by a board to employ a person to teach the school does not bind either the board or the person until it has been communicated to and accepted by him. Any time before the acceptance the vote may be reconsidered. If a person makes application to a board for a school, neither he nor the board are bound by such application until the school board has accepted and notified the person that his application has been accepted. 111 Ill., 421; 40 Mich., 84; Pollock on Contracts, 8.

CANNOT REQUIRE—School boards cannot require a teacher to teach any branch other than those named in the law, unless the contracts are so made.

ILLEGAL—TWO TEACHERS—In some instances directors lay the foundation for a poor school by contracting or attempting to contract with two teachers. Generally in such cases the people, like the directors, are divided—some for one teacher, some for the other, and some, like one of the directors, for both, and, as the time for the school to open draws nearer, the discussion and feelings in the matter grow warmer and more bitter, and the result is a poor school, whether the same is taught by the one teacher or the other.

This all grows out of directors trying to do the business of the district, by the members of the board, acting individually, and not at a regular or a special meeting, duly called, at which a record is made of their acts and doings.

School districts would not have to suffer the evil consequences of such acts if directors would meet as a board and transact the public business as the law and common sense dictate.

Nine times in ten neither teacher has a contract that he can enforce, for the reason that the law does not countenance contracts so made by individual members. The statute should impose a heavy penalty on both the members and the teacher for attempting to bind the school district in this way.

These persons, whose duty it is to make the school the best that is possible, are the prime factors in wrecking it and bringing disaster to the educational interest of the district.

Contracts so made are worthless, and do not bind the district.

MAY RECOVER DAMAGES—When a teacher is discharged his pay ceases. If he is successful in a suit for his wages, he may recover for the whole time he was employed. 86 Ill., 595; 2 Ill., App., 458; 6 Pa., 923; 45 Ill., 12; 15 Col., 367.

The plaintiff is only entitled to the difference between the stipulated wages and what he earned or might have earned at a similar employment in his own vicinity during the time covered by contract. Greenleaf on Ev., II. §, 161; Chitty on Contracts, 11 Am. Ed., II., 855.

The burden of proving that the teacher could have secured employment is upon the directors. 36 Ill., App., 653.

As in all cases, the damages which can be recovered should be such as follow in the natural course from wrongful act, and ought to be measured so as to put the plaintiff pecuniarily in the same position as he would have been if he had been discharged rightly; he is not necessarily entitled, as was once thought, to his full salary for the unexpired term for services according to contract. He must not sit still and do nothing, but should use all reasonable exertions to get a new situation, and should accept of such suitable employment as may offer itself. If he gets a new situation without much delay, the damages will be reduced according to its value; but whatever the value the new situation may be, the plaintiff is always entitled to some damages for the wrong done him by the breach of contract. 36 Ill., App., 133; 14 Eng., (L. T. N. S.) 863.

ENTITLED TO PAY—A teacher is entitled to his pay if the board neglects to have the house ready for school at the time fixed in the contract for the school to open, or if the house should be lost by fire and the board failed to provide a place in which to continue the school, or if the house is not kept in repair for use in cold weather, or the board should fail to provide fuel for the school. In such cases his pay continues the same as if he had taught, provided he stands ready to comply with the terms of his contract and subject to the commands of the school board. If the school is closed by order of the school board on account of some contagious disease, or some epidemic sick-

ness in the district or community, the teacher is entitled to his pay for such time the same as if he had taught. 43 Mich., 480.

DISAGREEMENT—Many differences arise between teachers and school boards as to just what the terms of the contract were, and not infrequently end in litigation or ill feelings. Such misunderstanding demonstrate that directors should make their records show just what action they have taken in their official capacity, and when both parties to a contract have agreed upon terms, such terms should be incorporated in a written contract, duly signed by both parties.

The contract should contain, in plain language, all the essential points, and should express just what the aim and intentions of both parties are. The rule of law, as followed by the courts, is to give effect to the intention, but if the language is explicit and unequivocal, it then governs, though it may fail to express what the parties intended. 4 Ill., (Gilman) 536.

NO IMPLIED CONTRACT—There is no implied contract between teacher and pupil in our common schools that the former should teach the latter. The only contract of the teacher is with the school board employing him, and he is accountable to the board for his acts as teacher. 2 Ill., App., 584.

SPECIAL CONTRACTS—The policy followed by some boards in making contracts providing for the discharge of the teacher at any time is not a good rule.

The supreme court of Wisconsin says: "If the board makes a valid contract, reserving the right to discharge the teacher whenever they see fit, then the public schools must be taught to suit the whims, caprices, and peculiar notions of the hiring board, and not as the teacher in the conscientious discharge of his duty should teach the same.

They could compel teachers of the district schools to teach the same to the satisfaction of the board who hire, instead of to the satisfaction of the people who compose the district, or in a manner most beneficial to the pupils, or as a good, competent, and faithful teacher should teach."

NOT BINDING—In the states of Ohio and Washington it has been held, in substance, as follows: "All authority of the school board to employ a teacher is traceable to some provision of law. Such law is not only the source of their authority, but the limitation of it. The power to discharge a teacher is restricted by the provision that the discharge must be for sufficient cause. The board cannot, by the form of the contract they enter into with the teacher, give themselves greater power than the statute has conferred upon them. No power whatever is conferred upon the board to discharge a teacher, except for sufficient cause. Any provision, therefore, in the contract with a teacher giving the board the power to discharge him at will is unauthorized and invalid."

CONTRACT NOT SPECIFIC—If a teacher contracts to teach in the schools under the control of a school board, and such contract does not specify the grade, then the board has the right to assign the teacher to any room or grade they deem fit, but the wages of the teacher cannot be reduced. To assign the teacher to another grade, and attempt to force him to accept lower wages than the contract rate, would operate a discharge. 11 Ill., App., 393; 50 N. Y., 473; 67 N. Y., 372.

CORPORATE LIABILITY—School directors are liable, as a corporate body, to teachers for their pay, and are not liable individually.

It must be understood that there is no corporate liability if the

debt has not been legally contracted. To legally contract a debt the directors must follow the law in all its steps that are required to be taken.

CANNOT DISCRIMINATE IN CONTRACT—"A school board has no right to insert in its contract for work upon a school building a provision that none but 'union' men shall be employed in such work or placed upon its payrolls. The opinion of the board that such action is for the public benefit is not justifiable, and a taxpayer may enjoin the expenditure of a school fund under such provision of a contract for a public school building requiring the employment of 'union' men only." 177 Ill., 194.

NOT JANITOR—School boards cannot compel the teacher or the pupils to do janitor work. They may contract with the teacher to do such work and pay him for the same, but if there is no contract to this effect, then the teacher has the right to refuse to perform the labor; and so with the pupils.

CANNOT EXPEL—A pupil who willfully carries dirt into the school room, or scatters paper over the floor may be required to gather up such dirt and refuse as had been scattered. But this is a punishment. No doubt it may be very desirable, under certain circumstances, to have such work done; but no court will sustain a board in suspending a pupil for refusal to do the work thus required. 97 Ill., 375.

NOT TO DRAW WARRANTS—Sec. 28. The school directors shall draw no order or warrant payable upon demand upon the township treasurer or against any fund in his hands, unless at the time of drawing such order or warrant there are sufficient funds in his hands to pay the amount of the same: *Provided*, this section shall not apply to orders issued to teachers for their wages.

WARRANTS AGAINST UNCOLLECTED TAX—Sec. 29. Whenever there is no money in the treasury of any school district to meet and defray the ordinary and necessary expenses thereof, it shall be lawful for the board of directors to provide that all orders or warrants may be drawn and issued against and in anticipation of the collection of any taxes already levied by said directors for the payment of the ordinary and necessary expenses of any such district, to the extent of seventy-five per centum of the total amount of said tax levy: *Provided*, that warrants drawn and issued under the provisions of this section shall show upon their face that they are payable solely from said taxes when collected, and not otherwise, and such warrants shall be received by any collector of taxes in payment of the taxes against which they are issued, and which taxes against which said warrants or orders are drawn shall be set apart and held for their payment.

DIRECTOR'S ORDER AGAINST UNCOLLECTED FUNDS.

The treasurer of township No..., range No..., in county, will pay dollars to the order of for, out of the proceeds of a tax levied, 1.....

This order is issued and received in full settlement of the debt which it purports to pay, and it is payable from the said tax when collected.

By order of the board of directors of district No..., in said township.

....., Pres.
....., Clk.

LIABILITY—Sec. 30. The school directors shall be liable as directors for the balance due teachers, and for all debts legally contracted.

ILLEGAL ORDERS—An order issued by school directors, except for teacher's wages, when there is no funds belonging to the district in the hands of the treasurer with which to pay the same is illegal and void. Section 29, above, provides that when a tax is levied, and not yet collected, the corporate authorities may draw on seventy-five per cent. of such levy, but the order must be endorsed as provided in the last part of the section. 23 Ill., App., (Smith) 649.

NO COMPENSATION—The law makes it the duty of the members of school boards and the trustees of schools to hold the school elections, and for such services they are excused from road labor. In some instances school boards and trustees allow from the public funds pay for such services, which is an illegal use of the school funds, and the officers so appropriating money can be made to cover the same back to the fund from which it is taken. If the persons whose duty it is to act as judges and clerks of school elections fail or refuse to act, the law makes no provision for paying those who are chosen to perform these duties. The officers, in addition to being compelled to replace the money so appropriated, are subject to a fine.

MUST INHABIT—The statute says when an officer ceases to be an *inhabitant* of the district, township, etc., his office becomes vacant. Hence, it may be well to note that there is a distinction between *inhabitant* and a *resident*. In a case where a school treasurer with his family went to another state and engaged in business, leaving the office in charge of a deputy, it is clear to our mind that he vacated the office by ceasing to be an inhabitant of the township.

VOTE REQUIRED—Sec. 31. It shall not be lawful for a board of directors to purchase or locate a school house site, or to purchase, build or move a school house, or to levy a tax to extend schools beyond nine months without a vote of the people at an election called and conducted as required by section 4 of article IX. of this act. A majority of the votes cast shall be necessary to authorize the directors to act: *Provided*, that if no one locality shall receive a majority of all the votes cast at such election, the directors may, if in their judgment the public interest requires it, proceed to select a suitable school house site; and the site, so chosen by them shall, in such case be legal and valid, the same as if it had been determined by a majority of the votes cast; and the site so selected by either of the methods above provided shall be the school house site for such district; and said district shall have the right to take the same for the purpose of a school house site either with or without the owner's consent, by condemnation or otherwise.

VOTE NOT LIMITED—At an election called to vote upon the question of building a school house, and there is nothing in the election notice about selecting a site, if the vote is for building, then the board has the right to build a school house on the old site.

A vote to build or to purchase a school site does not authorize the school board to borrow money. To build and to borrow money are two distinct propositions. Hence, to vote to authorize one does not authorize the other, and in a vote on both questions a defeat of one leaves the other so the board will be unable to carry it out.

In voting on the proposition to select a school site, if the election notice is not specific, that is, each voter is left to vote as he pleases, then, if no site receives a majority of the votes cast, the board has the power to select a site; but if the notice is specific and no site has a majority of the votes cast at such election, then there must be a new election, as the board in such cases has no authority to select a site.

If a school board deems an old site unsuitable for school purposes, the law authorizes the board to order an election for the purpose of selecting a new one, and should the voters select a new site, the school board has not the power to set the election aside, and order a new election. Though the new site may have no highway to it, the board must abide by the will of the voters as expressed at the election. 178 Ill., 15.

There is no authority in law for more than one polling place in a school district, when voting on any proposition upon which the legal voters of a district are authorized to vote. 182 Ill., 219.

Where a district selects a school site in a legal way, and the owner will not sell the same, the land may be condemned, if it is not in the corporate limits of a city or village, and is not within forty rods of the owner's dwelling house. A site must be selected, as the law directs, before it may be condemned. Land may be condemned for the purpose of enlarging a site already in use. 25 Ohio, 229.

"A township board of education cannot levy a tax for a township high school without a vote of the people. In view of section 41 of article 3 and section 31 of article 5 of the School Law (1889) a township board created by section 40 of article 3 of the same law has no power to purchase a high school site, or erect a high school building, or to levy a tax to raise money for those purposes without the authority of a vote of the people." 175 Ill., 256.

EMINENT DOMAIN—Sec. 32. In case the compensation to be paid for the school house site mentioned in the preceding section cannot for any reason be agreed upon or determined between the school directors and the parties interested in the land taken for such site, then it shall be the duty of the directors of such district to proceed to have such compensation determined in the manner which may be at the time provided by law for the exercise of the right of eminent domain: *Provided*, that no tract of land lying outside of the limits of any incorporated city or village, and lying within forty rods of the dwelling house of the owner of the land, shall be taken for a school site without the owner's consent.

REMOVAL—Sec. 33. Any director willfully failing to perform his duties as director under this act, may be removed by the county superintendent, and a new election ordered, as in other cases of vacancies.

ORDER REQUIRED—Sec. 34. All funds belonging to any school district, and coming from any source, shall be paid out only on order of the board of directors, signed by the president and clerk of said board, or by a majority of the said board. In all such orders shall be stated the purpose for which or on what account such order was drawn. Such order may be in the following form:

The treasurer of township No..., range No..., in county, will pay to, or bearer, dollars and cents, (on his contract for repairing school house, or whatever the

purpose may be.) By order of the board of directors of school district No., in said township.

A.....B....., President..

C.....D....., Clerk.

TEACHER'S ORDER.

The treasurer of township No., range No., in county, will pay to or order, dollars for services as teacher in our employ, from, 1....., to, 1....., inclusive, being at the rate of dollar a month, for which time we have certified to schedules for such time as required by law.

By order of the board of directors of district No., this day of, 1.....

....., Pres.

....., Clk.

MUST STATE—An order drawn by a school board must state on its face the purpose for which it was issued. (47 Ill., 525.) The law does not authorize school boards to issue time orders nor an order drawing interest. In pursuance of a vote of the people, boards are authorized to issue bonds, notes, and orders drawing interest if they are issued for borrowed money. 78 Ill., 474; 91 Ill., 402.

MUST PAY ON ORDER—A school treasurer cannot legally pay out any money belonging to a school district, except upon orders legally issued by the board, or if pupils attend school by transfer from one district to another in his township, then he is authorized to charge the district granting the permit, and to credit the district in which the pupils attend with the amount as shown by proper evidence—the schedules.

MUST NOT PAY—If the treasurer is called upon to pay an order that is not in form, as the law directs, or if he has knowledge that the order is illegal from any cause, it is his duty to decline to pay the same.

VOID—A member of a school board cannot legally authorize another member to sign his name to any order, tax levy, contract, permit, election notice, or schedule. Orders, permits, and contracts so signed are illegal and void. 47 Ill., 525; 184 Ill., 240.

TRANSFERS—Sec. 35. Pupils shall not be transferred from one district to another without the written consent of a majority of the directors of each district, which written consent shall be delivered to and filed with the proper township treasurer, and shall be evidence of such consent. A separate schedule shall be kept for each district, and in each schedule shall be certified the proper amount due the teacher from that district, computed upon the basis of the total number of days' attendance of all schedules. If the district from which the pupils are transferred is in the same township as the district in which the school is taught, the directors of said district shall deliver the separate schedules to their township treasurer, who shall credit the district in which the school was taught, and charge the other district with the respective amounts certified in said separate schedules to be due. If pupils are transferred from a district of another township, the schedule for that district shall be delivered to the directors thereof, who shall immediately draw an order on their treasurer in favor of the treasurer of the township in which the school was taught for the amount certified to be due in said separate schedule.

TUITION COLLECTED—Sec. 36. When a school is composed in part of pupils transferred, as provided for in the preceding section, from other townships, the duty of collecting the amount due on account of such pupils shall devolve upon the directors of the district in which the school was taught.

CANNOT BIND—School directors, boards of education, and township trustees cannot bind their districts or townships when the members act separately or individually. Contracts so made do not bind either party. A school order not authorized at a regular or a special meeting duly called is void, and the township treasurer should not pay it. School boards cannot make individual acts legal by attempting to ratify them at some future meeting. It is not necessary to follow this discussion, as it is sufficient to refer to the courts that sustain the opinion. 10 Ill., App., (Brad.) 229; 24 Ill., App., (Smith) 229; 22 Ohio, 144; 27 Kan., 129; 47 Mich., 626; 4 Neb., 254; 29 Ohio, 418; 59 Wis., 518; 35 Wis., 163; 37 Wis., 96; 41 N. J. L., 312; 89 Pa., 395.

DISTRICT NOT BOUND—If the individual members of a school board purchase anything for the school district without an order from the board to make such purchase, the district is not liable for the payment, even though the district has used the goods so purchased. The law creating school boards points out how they are to proceed in the discharge of their official duties, and to exercise their powers as such officers, and will not countenance and sanction acts which are in opposition to or in violation of the law. 67 Mo., 319.

NO AUTHORITY—A school board has no authority to purchase goods for the district when there are no funds on hand nor any in course of collection. Orders issued in payment of debts when there are no funds are void. If the orders are time orders, or time orders with interest, they are illegal and cannot be collected. The only remedy the party has for such claims is to go and get his goods if he can find them. 78 Ill., 474.

MAY VOTE TWICE—In an election to vote upon such special questions as the law provides, shall be submitted to the people, though the propositions may or may not carry, in the discretion of the board, the people may vote again upon the questions, if they so desire, but due notice must be given. If the people ask the privilege of the second vote, as a rule, boards should grant the request and call another election, and give them an opportunity to express their will.

Such propositions as may have carried at the first election, but failed at the last election, are not annulled by the vote, but the board is legally bound to carry out the will of the people as expressed at the first election.

PERMITS—Boards of directors in granting and accepting permits should take such action at meetings of the boards, and not by the members acting individually. School boards should make a full record of their acts concerning any permits granted or accepted by them. When a permit is accepted by a district, the teacher should be advised of the nature of the terms, etc., and he should enter the facts in his register. School directors should not issue a permit, nor accept one for a longer term than that for which the teacher has contracted, if the term runs till after the April election, nor should they issue or accept one before the April election, the attendance to commence after the election. 78 Ill., 255.

PERMIT.

By order of the board of directors in school district No..., in township No..., range No..., permission is granted, who is a

resident of this district, and lawful age, to attend school months in district No..., in township No..., range No...

This order to continue in force till the day of, 1.. ...

Dated this day of, A. D., 1.....

....., Pres.

....., Clk.

Accepted by order of the board of directors in district No..., township No..., range No..., this day of 1.....

....., Pres.

....., Clk.

SEPARATE SCHEDULES—The law requires the teacher to make a separate schedule for the pupils transferred; hence, the permit should contain the number of the district, etc., granting it, and the time for which it is granted. It is the teacher's duty to make these schedules at the time he makes the regular schedules for the district. If the pupils reside in the township in which the school is situated, the directors, on finding the schedules correct, approve and file them with the township treasurer, and it is then the duty of the treasurer to charge the amount to the district granting the permit, and to credit the amount to the district accepting the permit. If the districts are in different townships, the directors granting the permit must approve the schedule on finding it correct, and issue an order for the amount due in favor of the district accepting the permit, and it is made the duty of directors, to whom the order is issued, to collect the money and immediately pay it to their township treasurer.

Directors should give applications for transfers all due consideration, and should grant them, if it will serve the interest of particular pupils without any very material loss to the district. If the reasons for asking the transfer are good, such as long distance for young children, stream to cross, or bad roads, then the applicant should not be refused on the pretext that it will cost the district some money. Directors are the sole judges in such cases, and no appeal from their decision.

If pupils who are not residents of a district attend a school, and have no permit to do so, the teacher should report such pupils to his board of directors that the matter may be settled and adjusted without delay by the school board.

MAY GRANT USE OF HOUSE—School boards may grant the use of the school house, if it is not occupied by school, for Sunday schools, for religious meetings, literary meetings, and for such other meetings as may be thought proper by the directors. They are not authorized to grant the use for any great period of time as for the use of a private or "subscription school." The law says "temporary," and means what it says. In the use of a school house for "temporary" purposes, it must be understood that the property must be left in as good condition as found. The books of pupils, the furniture, and apparatus must not be damaged. The wood or coal belonging to the district must not be used, unless paid for by the persons using it. For any damage to books of the pupils, or school property, the directors are individually and collectively liable. 68 Ill., 530; 93 Ill., 61; 35 Ohio, 143.

YOUNG PUPILS—A school board may adopt a rule that for pupils under twelve years of age the day may be four hours, but for all others it appears that custom has made six hours a school day. The law on this point, like most others, it means what it says when it says the day may be four hours, and it does not mean that it may be made three hours.

As to the time of opening and closing the schools is a matter for directors to determine, but the law of custom will require them to have six hours daily.

MAY ASSIGN PUPILS—Boards of education and directors having two or more school houses in their districts are authorized to say which school each pupil of the district shall be permitted to attend; but the children must have equal privileges—one law for all. School boards are made the judges, and if they act in good faith, using their best judgment, no action or writ can be maintained against them. * 71 Ill., 333; 101 Ill., 308; 127 Ill., 613.

CONTAGIOUS DISEASE—Pupils infected with diseases which are considered contagious, or offensive, may be excluded for the time being from a school. The right to attend and receive the benefits of the public belongs to all, but there are times when we must surrender these rights, as they are rights in common, and not exclusive individual rights and privileges; therefore, such rights must be exercised under such restrictions that the same common rights held by others may not be interrupted. The right to exclude such children from the school does not come from any fault or violation on their part, but because their attendance is against the comfort and welfare of others in the school. Boards of education should not exclude longer than such time as the danger is past, or the offensiveness is removed.

The courts in the states generally have held that if a pupil is infected with, or has been exposed to any contagious disease, it is sufficient reason for excluding such pupil from the school until such time as the danger is past. 31 Ia., 562; 116 Mass., 366; 38 Me., 164; 12 Mass., 127; 48 Vt., 444; 23 Mass., 224; 8 Cush., 160.

It is quite clear that school boards have the right to enforce a rule excluding pupils, for the time being, from the benefits of the school, if such pupils have been exposed to any contagious disease, and the attendance of such pupils would endanger the health of others and spread the disease. At a time when there is an epidemic as small-pox, and there reasonably appears to be a necessity to prevent the spread of the disease, the board may require the pupils to be vaccinated as a condition to continuing in the school. School boards cannot enforce this rule unless there is a necessity, or, as stated, "reasonably appears to be a necessity," until the danger from the disease is past. 167 Ill., 67.

MORAL DEPRAVITY—School boards are authorized to exclude from the schools pupils whose moral depravity is such as to endanger the morals of other pupils in the schools, even, though, such pupils do not violate any rules of decorum and deportment while at school. 8 Cushing, 160.

SHOULD FIX TIME—School boards, when suspending or expelling a pupil, must fix the time for which the pupil is to stand expelled from the privileges of the school, unless sooner admitted by an order of the board. The time should not be longer than that in which the pupil may show to the board that he may be allowed to return without injury or danger to the school. It is not well for school boards to make a general rule which expels or suspends to the end of the school. Courts cannot sustain such a rule for the reason, that in many cases, it would be held as "unreasonable."

In a case where a pupil was expelled in some part of the term of the school which expired on a day in January, and on the day following the pupil made application for admission to the school, but was refused, a circuit court held that such refusal was illegal, and granted a writ of *mandamus*, ordering the directors and the teacher to admit the

pupil on the ground, that as the board had failed to fix the time for which the pupil was expelled, the term time governed.

NOT LIABLE—The statute provides that school officers may not be held liable in damages for expelling or suspending pupils, when they act in good faith and from honest motives, in enforcing rules and regulations in the interest of the schools under their charge, unless their acts are malicious and wilful, then they are liable in damages. 79 Ill., 567; 95 Ill., 263.

NOT REASONABLE—A circuit court held that the following rule was not such as school boards have a right to enforce and punish pupils by expulsion or suspension; and granted a writ of *mandamus*, directing the directors to admit the pupil to the school:

"Every pupil who shall be absent six half days in four consecutive weeks, without any excuse from the parent or guardian satisfying the teacher that the absence was caused by his own sickness, or by sickness in the family, or to avoid a serious and imprudent exposure of health, shall forfeit his seat in the school. No pupil thus suspended shall return to the school till the parent or guardian has given satisfactory assurance that the pupil will be punctual in the future, and obtained permission from the principal to return."

The pupil on going back to the school presented the following excuse to her teacher, but was refused admission, and suspended from the school on the ground of the insufficiency of the excuse:

"Miss Garrett will please excuse Mary's absence for the past two weeks, as she was visiting the St. Louis fair with my consent."

"J. H. LEDLIE."

—Extract from Western Jurist.

MAY BE REQUIRED—Excuses may be required of parents and guardians for absence or tardiness, if not of an unreasonable nature.

The supreme court of Missouri said: "Suppose rule II. to be inverted, and instead of reading, as it does, should read thus: 'Any pupil is at liberty to go a-fishing during school hours, and be absent a half day or a whole day and as many days as he pleases, provided he conducts himself decently when in attendance at school.' As this is the point to which the argument of the plaintiff tends, the pupil, it is urged, is at liberty to be absent when he pleases, and such absence is a matter solely between him and his parents. But the studies in our public schools are classified, according to age and advancement of the scholars, and the continued and repeated absence of one of a class not only is injurious to the absentee, but if allowed beyond a certain point is calculated to demoralize those who attend, and damage the orderly instructions of the teacher. Taxes are not collected to pay teachers to sit in front of empty benches, or to hunt up truant boys. Such absences, when without excuse, are the fault of the parents, whose business it is to see that the attendance of their children is regular, unless prevented by causes which will, of course, be an excuse under the rules now in question." 71 Mo., 628; 116 Mass., 366.

REGULAR ATTENDANCE NECESSARY—For successful school work the pupil's mind must be open to receive instruction, and, without this, it is a waste of time for the teacher to try to lead him forward in the studies and learning. To secure an application of the mind in a pupil, he must be interested in the studies. This cannot be done if the pupil is out one day, at school two days, and out a day, etc.

In order to interest a pupil, he must understand the subject in which he is instructed. If a pupil has missed a lesson, he cannot gain the greatest benefit from the next, with all the efforts of the teacher to assist and explain to him. Irregular attendance of pupils retard the

progress of themselves and their class-mates, who may be prompt. All are hindered and delayed by imperfect and half-understood lessons blundered over by those who do not comprehend the work in hand, and the sum total is, such pupils become discouraged and hold a dislike for school and the branches taught.

BIBLE IN SCHOOL—Religious exercises and the Bible in public schools is a "bone" of contention, and not infrequently results in much damage to a school in which such questions come up. Private schools are at liberty to conduct religious exercises as their promoters deem fit, but the public schools should be conducted in keeping with the spirit of the constitution and laws of the state establishing them. The constitution of Illinois has this clause on the subject: "The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be granted, and no person shall be denied any civil or political right, privilege or capacity, on account of his religious opinions; * * * * * no person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship."

It is frequently urged by some that a county superintendent should refuse to license those holding certain religious faiths or beliefs. He cannot legally do so under the above quoted clause of the constitution. If he should seek to interrogate an applicant on the subject, the person has the right to decline answering the questions. The clause of the constitution quoted is clear and definite in its language and needs no comment. The constitution of the United States says: "Congress shall make no laws respecting the establishment of religion, or prohibiting the free exercise thereof."

This clause leaves the matter so a state may establish a religion, and by law require it taught in the schools; and should a state see fit to establish a religion, congress could make no law prohibiting the action of the state.

A state may establish a religious test for teachers who seek to teach in its public schools, and under such right could require a similar test for those who teach in any private school in the state. Illinois cannot, under the present state constitution, adopt such a law; hence, the discussion need not be carried on at length more than to say that teachers should be broad and liberal on the subject of the Bible and religious exercises in the public schools. If a teacher feels that he should open his school by reading from the Bible, or with prayer, he should arrange for such exercises at a time when they will not trench on the rights of those who hold different religious opinions and views, and leave all free to attend and take part or remain apart, as they may choose. No one has the right to interfere if a teacher desires to pray, or read from the Bible, if he feels that it is his duty. The school board has no authority to require him to discontinue the practice. They can advise with him, but he is free to do as his conscience dictates, so others are equally free. All agree that our schools should be kept free from sectarianism and party politics. The law of custom fixes the school day at six hours, and when there is any conflict between the school board and the teacher as to religious exercises in school, the directors may insist that such exercises must not occupy the time of the regular school hours; but if the teacher feels that it is his duty to engage in such exercise, he has the right to do so immediately before school time, or after the school hours have closed.

Teachers are not authorized, in the use of text-books, or in recita-

tions, to give any sectarian versions of any text with the view of influencing the minds of their pupils. 95 Ill., 263.

NEW YORK OPINION—"A pupil declined to read from a Testament in what is termed a religious exercise. The teacher consulted the school board on the subject, and on the next day again required the boy to read out of the King James Bible. The boy declined to do so, and declared 'his unwillingness to disobey his parents' orders and violate the precepts of his religion.' Whereupon the teacher chastised him with a ferule and then expelled him from the school."

The state superintendent, on hearing the appeal, said:

"Prayers cannot form any part of the school exercises, or be regulated by the school board. If had at all, they should be had before the usual hour for commencing school in the morning, and after the school hours have closed. If any parents are desirous of habituating their children to the practice of thanking their Creator for His protection during the night and invoking His blessings on the labors of the day, they have a right to place them under the charge of the teacher for that purpose. But neither they nor the teacher have any authority to compel the children of other parents who object to the practice from dislike of the individual or his creed, or from any other cause, to unite in such prayers. And on the other hand, the latter have no right to obstruct the former in the discharge of what they deem a sacred duty. Both have rights; and it is only by a mutual and reciprocal regard by each to the rights of the other that peace can be maintained or a school can flourish. The teacher may assemble in his room before the school hour the children of those parents who desire him to conduct their religious exercises for them; and the children of those who object to the practice will be allowed to retire or absent themselves from the room. If they persist in remaining there, they must conduct themselves with the decorum and propriety becoming the occasion. If they do not so conduct, they may be dealt with as intruders." New York Decisions, VIII., 102.

CHURCH HOLIDAYS—In some school districts there are many pupils belonging to families that observe the church holidays and detain their children from the schools on those days, and for such absences, in some cases, the school boards have expelled the pupils from school.

In a case of this kind taken to the supreme court of Vermont, Justice Barrett, in delivering the opinion, said: "The school boards were legally justified in acting as they did;" and went on to show that school boards are supreme in their rights over parents; that a citizen has no more right to disregard the rules made by a school board than he has to defy the law by which the board was empowered. He said that if parents be allowed to set their wishes against the rules of the directors, then practically the ground of system, order and improvement has no existence, and it *makes no difference, so far as its effect on the school is concerned, whether the detention involves conscience, will, whim, or the pocket.* 48 Vt., 444.

REMARK—Since the above decision was rendered, the then prevailing opinions on such matters have changed in some parts of the country, especially in the western states, though not materially changed in the eastern states. Under the decisions of some of the western supreme courts, if the pupil, when he returns to school after being out on account of a church holiday, furnishes a written statement from the parent or guardian, would be all the board could legally demand.

OPINIONS—"I believe the Holy Scriptures, and especially that portion known as the New Testament, are proper to be read in schools by

pupils who have attained sufficient literary and mental culture to understand their import. I believe they may, as a matter of right, be read as a class-book by those whose parents desire it. *But I am clearly of the opinion that the reading of no version of them can be forced on those whose consciences and religion object to such version.*" State Superintendent Randall.

The supreme court of Wisconsin held that the reading of the Bible in the public schools is unconstitutional. 76 Wis., 177.

The school board of Cincinnati was sustained in forbidding the reading of the Bible in the schools. 23 Ohio, 211.

The Chicago board was upheld in enforcing a similar rule. 95 Ill., 263.

Arkansas forbids granting a certificate to a person who does not believe in a Supreme Being, and Rhode Island advises that any teacher who is in the habit of ridiculing, or scoffing at religion, shall not be permitted to teach.

Pennsylvania forbids anyone, while in the performance of duty as a teacher, to wear any dress, mark, emblem, or insignia, indicating that the person is a member or adherent of any religious order, sect, or denomination.

ARTICLE VI.

BOARD OF EDUCATION.

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| <p>§ 1. Cities and villages.</p> <p>§ 2. Boards of education in all districts not less than 1,000 inhabitants; number of members.</p> <p>§ 3. President of the board.</p> <p>§ 4. Duties and powers of the president.</p> <p>§ 5. Annual election of members; term of office.</p> <p>§ 6. Notice of election; form of notice.</p> <p>§ 7. Election on any Saturday.</p> <p>§ 8. Conduct of election.</p> <p>§ 9. Election of members of board of education to succeed directors.</p> <p>§ 10. Powers and duties of the board defined.</p> <p>§ 11. Yeas and nays.</p> <p>§ 12. Business to be done at a regular or special meeting.</p> <p>§ 13. Conveyance of real estate; how made.</p> <p>§ 14. School moneys in charge of township treasurer.</p> <p>§ 15. Special acts may be relinquished, manner of change and form of notice.</p> | <p>§ 16. Redistricting under this act; election of school boards.</p> <p>§ 17. Number of members in board of education of cities having over 100,000 inhabitants, and manner of their appointment.</p> <p>§ 18. Eligibility to membership in boards of education in such cities.</p> <p>§ 19. Organization; employes of the board; terms, etc.</p> <p>§ 20. Records; yeas and nays.</p> <p>§ 21. Powers with concurrence of city council defined.</p> <p>§ 22. Other powers defined.</p> <p>§ 23. Duties defined.</p> <p>§ 24. Business to be done at a regular meeting.</p> <p>§ 25. Conveyances of real estate made to city in trust.</p> <p>§ 26. School moneys held by city treasurer.</p> <p>§ 27. City not liable for excess of expenditures; board not authorized to tax.</p> <p>§ 28. Powers of board not to be exercised by city council.</p> <p>§ 29. Examine teachers.</p> |
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VILLAGES, ETC.; SPECIAL LAWS—Sec. 1. Incorporated cities and villages, except such as now have charge and control of free schools by special acts, shall be and remain parts of the school townships in which they are respectively situated, and be subject to the general provisions of the school law, except as otherwise provided in this article.

BOARD ELECTED—Sec. 2. In all school districts having a population of not less than one thousand and not over one hundred thousand inhabitants, and not governed by any special act in relation to free schools now in force, there shall be elected, instead of the directors provided by law in other districts, a board of education, to consist of a president of the board of education, six members, and three additional members for every additional ten thousand inhabitants. Whenever additional members of such board of education are to be elected by reason of increased population of such district, such members shall be elected on the third Saturday of April succeeding the ascertaining of such increase by any general or special census, and the notice of such election shall designate the term for which the members are to be elected, so that one-third of the board shall be elected for each year. *Provided*, that in no case shall said board consist of more than fifteen members.

PRESIDENT ELECTED—Sec. 3. The president of said board of education shall be elected annually, at the same time the members of the board of education are elected, and he shall hold his office for the term of one year, and until his successor is elected and qualified.

DUTIES—Sec. 4. The president of the board of education so elected shall preside at all meetings of said board, and shall give the casting vote in case of a tie between the members thereof, but otherwise he shall not have a vote. He shall sign all orders for the payment of money ordered by said board, and generally perform such duties as are imposed by law upon presidents of boards of directors, or that may be imposed upon him by said board of education, not in conflict with law: *Provided*, that in the absence or inability to act as said president, said board may appoint a president *pro tempore* from their number.

ANNUAL ELECTION—Sec. 5. The annual election of members of the board of education shall be on the third Saturday in April, when one-third of the members shall be elected for three years, and until their successors are elected and qualified.

NOTICE—Sec. 6. Notice of such election shall be given by the board of education at least ten days previous to such election by posting notices in at least three of the most public places in said district, which shall specify the place where such election is to be held, the time of opening and closing the polls and the purpose for which such election is held, which notice may be in the following form, to-wit:

Public notice is hereby given, that on Saturday, the day of April, A. D., 1....., an election will be held at....., between the hours of and of said day, for the purpose of electing a president of the board of education of district No..., township No..., range No..., and members of the board of education of said district.

Dated this day of, A. D., 1.....

A..... B....., *President*.
C..... D....., *Clerk*.

FAILURE—Sec. 7. In case of a failure to give the notice above provided for, such election may be held on any Saturday after such notice has been given as aforesaid.

CONDUCT OF ELECTION—Sec. 8. Such election shall be conducted in the same manner, and be governed by the provisions of this act relating to the election of boards of directors, except as otherwise provided by law.

FIRST ELECTION—Sec. 9. At the first election of directors succeeding the passage of this act, in any district having a population of not less than one thousand (1,000) inhabitants by the census of 1880, and in such other districts as may hereafter be ascertained by any special or general census to have a population of not less than one thousand (1,000) inhabitants, at the first election of directors occurring after taking such special or general census, there shall be elected a board of education, who shall be the successors of the di-

rectors of the district; and all rights of property and all rights or causes of action existing or vested in such directors, shall vest in said board of education, in as full and complete a manner as was vested in the school directors. Such board, at its first meeting, shall fix, by lot, the terms of office of its members so that one-third of them shall serve for one year, one-third for two years and one-third for three years, and thereafter one-third shall be elected annually on the third Saturday in April, to fill the vacancies occurring, and to serve for the term of three years.

POWERS—Sec. 10. The board of education shall have all the powers of school directors; and, in addition thereto and exclusive thereof, they shall have the power and it shall be their duty—

First—To establish and support free schools not less than six nor more than ten months in each year.

Second—To repair and improve school houses; and to furnish them with the necessary fixtures, furniture, apparatus, libraries and fuel.

Third—To examine teachers as supplemental to any other examination, to employ teachers and to fix the amount of their salaries. [As amended by act approved June 19, 1893.]

TEACHER'S CONTRACT.

This agreement, made and entered into, by and between the board of directors of district No., township No., range, county of, State of Illinois, and, a legally qualified teacher in the county, witnesseth:

That the said agrees to teach the common school in said district, for the term of school months, commencing on the day of 1....., and that will faithfully instruct and impartially govern the children and youth who may attend the same, keep a register of the daily attendance and studies of each pupil, make the report required by law, and endeavor to preserve in good condition and order the school house, grounds, furniture, apparatus, and such other district property as may come under the immediate supervision of said teacher. The said teacher further agrees to strictly conform to the rules and regulations established by said board of directors for said school, and will faithfully perform the duties required of teachers as defined in Art. VII., School Law of 1889.

That the board of directors aforesaid, for themselves and their successors in office, in the name and in behalf of the district aforesaid, hereby agree to keep the school house in which said school is to be taught, in good repair, and to see that it is furnished with the necessary fuel and appendage for the comfort and convenience of the teacher and pupils, and to pay the said for services as teacher, the sum of dollars per school month, to be paid at the end of each month: *Provided*, that in case the said should be dismissed from said school by the said directors, or their successors in office, for incompetency, cruelty, negligence, immorality, or a violation of any of the stipulations of this contract, or in case h..... certificate should be revoked by the county superintendent, h..... shall not be entitled to compensation, after such dismissal or revocation.

Signed by order of the board of directors of said district, this.....
day of, A. D., 1.....

....., President.

....., Dist. Clk.

....., Teacher.

NOTE—This contract should be made out in duplicate, and one copy given to the teacher. No board should allow a teacher to commence school until written contract is properly signed by both parties

Fourth—To establish schools of different grades, and make regulations for the admission of pupils into the same.

Fifth—To buy or lease sites for school houses, with the necessary grounds: *Provided*, it shall not be lawful for such board of education to purchase or locate a school house site, or to purchase, build or move a school house, unless authorized by a majority of all voters voting at an election called for such purpose in pursuance of a petition signed by not less than five hundred (500) legal voters of such district, or by one-fifth of all the legal voters of such district.

CONSTRUCTION—This clause most certainly means that if there are 500 or more legal male voters in the district, the petition must be signed by 500 of them, but if less than 500 such voters in the district, one-fifth of them must sign. The act approved June 19, 1891, in force July 1, 1891, undoubtedly does not confer the legal right upon women to sign such petitions, nor to vote upon the questions enumerated in the clause. Hence, it is quite clear that women do not enter into the count of the voting population in such cases, as the act mentioned gives them the right to vote for directors, trustees, members of boards of education and trustees of the State University; nothing more.

Sixth—To levy a tax, annually, upon the taxable property of the district, in the manner provided in article VIII. of this act, for the purpose of supporting and maintaining free schools in accordance with the powers herein conferred: *Provided*, that it shall not be lawful for such board of education to levy a tax to extend schools beyond a period of ten months in each year, except upon petition of a majority of the voters of the district: *And, provided further*, that all taxes shall be levied under the limitations relating to the percentage of the assessment, as provided by section I., article VIII. of this act.

Seventh—To employ, should they deem it expedient, a competent and discreet person or persons as superintendent or superintendents of schools, and fix and pay a proper salary or salaries therefor, and such superintendent may be required to act as principal or teacher in such schools.

Eighth—To lay off and divide the district into sub-districts, and from time to time alter the same, create new ones and consolidate them.

Ninth—To visit all the public schools as often as once a month to inquire into the progress of scholars and the government of the schools.

Tenth—To prescribe the method and course of discipline and instruction in the respective schools, and to see that they are maintained and pursued in the proper manner.*

Eleventh—To expel any pupil who may be guilty of gross disobe-

dience or misconduct. No action shall lie against them for such expulsion.

Twelfth—To dismiss and remove any teacher whenever, in their opinion, he or she is not qualified to teach, or whenever, from any cause, the interests of the school may, in their opinion, require such removal or dismissal.

ABSOLUTE POWER—This clause gives boards of education the power to discharge a teacher at will, and leaves the discharged without any remedy for damages. The legislature has given greater power to boards of education than is given to boards of directors. The board of education at Carbondale, Ill., on May 16, 1898, employed a city superintendent for eight months, and at the same meeting other teachers were employed, but such a protest was raised by the patrons of the school that at a subsequent meeting on May 24, 1898, the board rescinded its former action and employed a new corps of teachers. When the time came to open the schools, Mr. Stotler, the first employed superintendent, presented himself for work, but he was informed that his services were not needed. After the term was up, for which he had been employed, he brought suit in the Jackson county circuit court and was given a judgment for \$640.00 damages, the amount he would have drawn had he not been discharged. The board appealed to the appellate court for the fourth district which court at its February term, 1901, reversed the decision of the lower court. The decision is based on that section of the law which clothes boards of education, not only with all the powers invested in boards of directors, but with the additional option of dismissing a teacher whenever, from any cause, the interests of the school may, in the opinion of the board, require the dismissal or discharge of the teacher. The court holds that in such cases the causes for removal or dismissal are made to depend on the opinion of the board, and not on the inability or action of the teacher. Hence, the latter has no recourse, but stands in the same position as though he had contracted to teach so long as his services were satisfactory to the board.

Thirteenth—To apportion the scholars to the several schools.

Fourteenth—To establish and promulgate all such by-laws, rules and regulations for the government and for the establishment and maintenance of a proper and uniform system of discipline in the several schools as may, in their opinion, be necessary.

Fifteenth—To take charge of the school houses, furniture, grounds and other property belonging to the district, and see that the same are kept in good condition, and not suffered to be unnecessarily injured or deteriorated.

Sixteenth—To provide fuel and such other necessities for the schools as, in their opinion, may be required in the school houses or other property belonging to or under the control of the district.

Seventeenth—To appoint a secretary and provide well-bound books at the expense of the school tax fund, in which shall be kept a faithful record of all their proceedings.

Eighteenth—To annually prepare and publish in some newspaper, or in pamphlet form, a report of the number of pupils instructed in the year preceding, the several branches of study pursued by them,

of the number of persons between the ages of twelve and twenty-one unable to read and write, and the receipts and expenditures of each school, specifying the source of such receipts and the objects of such expenditures.

"YEAS" AND "NAYS"—Sec. 11. In all questions involving the expenditure of money, the yeas and nays shall be taken and entered on the records of the proceedings of the board.

MEETINGS—Sec. 12. None of the powers herein conferred upon boards of education shall be exercised by them, except at a regular or special meeting of the board.

CONVEYANCES—Sec. 13. All conveyances of real estate shall be made to the township trustees in trust for the use of schools, and no conveyance of any real estate or interest therein used for school purposes, or held in trust for schools, shall be made, except by the board of trustees, upon the written request of such board of education.

TREASURER CUSTODIAN—Sec. 14. All money raised by taxation for school purposes, or received from the state common school fund, or from any other source, for school purposes, shall be held by the township treasurer as a special fund for school purposes, subject to the order of the board of education, upon warrants signed by the president and secretary thereof.

* See act requiring and regulating the study of physiology and hygiene, approved June 9, 1897.

SPECIAL LAW SURRENDERED—Sec. 15. Any city, incorporated town, township or district, in which free schools are now managed under any special act, may, by vote of its electors, cease to control such schools under such special act, and become part of the school township in which it is situated, and subject to the control of the trustees thereof, under and according to the provisions of this act. Upon petition of fifty voters of such city, town, township or district, presented to the board having control and management of schools in such city, town, township or district, it shall be the duty of such board, at the next ensuing election to be held in such city, town, or township or district, to cause to be submitted to the voters thereof, giving not less than fifteen days' notice thereof, by posting not less than five notices in the most public places in such city, town, township or district, the question of "Organization under the Free School Law," which notice shall be in the following form, to-wit:

Public notice is hereby given, that on the day of, A. D., 1....., an election will be held at, between the hours ofM. andM. of said day, for the purpose of deciding the question of "Organization under the Free School Law."

REDISTRICTING—Sec. 16. If it shall appear, on a canvass of the returns of such election, that a majority of the votes cast at such election are "For Organization under the Free School Law," then at the next ensuing regular meeting of the board of trustees of the township or townships, in which such city, incorporated town, township or dis-

trict is situated, said trustees shall proceed to redistrict the township or townships as aforesaid, in such manner as shall suit the wishes and convenience of a majority of the inhabitants in their respective townships, and to make a division of funds and other property in the manner provided for by section 63 of article III. of this act, and on any Saturday thereafter there shall be elected, in each of the new districts so formed, a director, directors or board of education, as the case may be, in the manner provided for in section 6 of article V. of this act, and thereafter such districts shall proceed as other districts under this act; but all subsequent elections of directors or boards of education shall be conducted as provided in sections 5 and 8 of article V. of this act.*

100,000 INHABITANTS—Sec. 17. In cities having a population exceeding one hundred thousand inhabitants, from and after this act shall take effect, the board of education shall consist of twenty-one members, to be appointed by the mayor, by and with the advice and consent of the common council, seven of whom shall be appointed for the term of one year, seven for the term of two years, and seven for the term of three years: *Provided, however,* that in such cities wherein there is now a board of education, holding their office by appointment, such officers shall continue in office until the time at which their terms would have expired under the law in force at the time of their appointment. At the expiration of the term of any members of said board, their successors shall be appointed in like manner and shall hold their office for the term of three years. Any vacancy which may occur shall be filled by the appointment of the mayor, with the approval of the common council, for the unexpired term: *And, provided further,* that from and after this act shall take effect, there shall be appointed by the mayor, by and with the advice and consent of the common council, six members, two of whom shall be appointed for the term of one year, two for the term of two years, and two for the term of three years. [As amended by act approved June 22, 1891.]

ELIGIBILITY—Sec. 18. Any person having resided in any such city more than five years next preceding his appointment, shall be eligible to membership of such board of education.

PRESIDENT AND SECRETARY—Sec. 19. The said board of education shall appoint a president and secretary, the president to be appointed from their own number, and shall appoint such other officers and employes as such board shall deem necessary, and shall prescribe their duties and compensation and terms of office.

RECORDS—Sec. 20. The said board shall provide well-bound books, at the expense of the school tax fund, in which shall be kept a faithful record of all their proceedings. The yeas and nays shall be taken and entered on the records of the proceedings of the board upon all questions involving the expenditure of money.

* See further provision in act approved June 2, 1891, and act approved June 10, 1897.

CONCURRENT ACTION—Sec. 21. The said board of education shall have charge and control of the public schools in such cities, and shall have power, with the concurrence of the city council—

First—To erect or purchase buildings suitable for school houses, and keep the same in repair.

Second—To buy or lease sites for school houses, with the necessary grounds.

If said board of education shall be unable to agree with the owner or owners for the purchase of such site, then with the concurrence of the city council it may acquire the title to said site in the manner that may be now or hereafter provided for by law of eminent domain. Such proceedings, to condemn, shall be in the name of the city in trust for the use of the schools. [As amended April 22, 1899; in force July 1, 1899.]

Third—To issue bonds for the purpose of building, furnishing and repairing school houses, for purchasing sites for the same, and to provide for the payment of said bonds; to borrow money for school purposes upon the credit of the city.

POWERS—Sec. 22. The said board of education shall have power—

First—To furnish schools with the necessary fixtures, furniture and apparatus.

Second—To maintain, support and establish schools, and supply the inadequacy of the school funds for the salaries of school teachers from school taxes.

Third—To hire buildings or rooms for the use of the board.

Fourth—To hire buildings or rooms for the use of schools.

Fifth—To employ teachers and fix the amount of their compensation.

Sixth—To prescribe the school books to be used, and the studies in the different schools.

Seventh—To lay off and divide the city into school districts, and from time to time alter the same and create new ones, as circumstances may require, and generally to have and possess all the rights, powers and authority required for the proper management of schools, with power to enact such ordinances, as may be deemed necessary and expedient for such purpose.

Eighth—To expel any pupil who may be guilty of gross disobedience or misconduct.

Ninth—To dismiss and remove any teacher whenever, in their opinion, he or she is not qualified to teach, or whenever, from any cause, the interests of the school may, in their opinion, require such removal or dismissal.

Tenth—To apportion the scholars to the several schools.

Eleventh—To lease school property, and to loan moneys belonging to the school fund.

DUTIES—Sec. 23. It shall be the duty of such board of education—

First—To take the entire superintendence and control of the schools in such cities.

Second—To examine all persons offering themselves as candidates for teachers, and when found well qualified to give them certificates gratuitously.

Third—To visit all the public schools as often as once a month.

Fourth—To establish all such by-laws, rules and regulations for the government and for the establishment and maintenance of a proper and uniform system of discipline in the several schools as may, in their opinion, be necessary.

Fifth—To determine from time to time how many and what class of teachers may be employed in each of the public schools, and employ such teachers and fix their compensation.

Sixth—To take charge of the school houses, furniture, grounds and other property belonging to the school districts, and see that the same are kept in good condition and not suffered to be unnecessarily injured or deteriorated.

Seventh—To provide fuel and such other necessities for the schools as, in their opinion, may be required in the school houses, or other property belonging to the said districts.

Eighth—To inquire into the progress of scholars and the government of the schools.

Ninth—To prescribe the method and course of discipline and instruction in the respective schools, and to see that they are maintained and pursued in the proper manner.

Tenth—To prescribe what studies shall be taught, and what books and apparatus shall be used.

* See act requiring and regulating the study of physiology and hygiene, approved June 9, 1897.

Eleventh—To report to the city council, from time to time, any suggestions they may deem expedient or requisite in relation to the schools and school fund, or the management thereof, and generally to recommend the establishment of new schools and districts.

Twelfth—To prepare and publish an annual report, which shall include the receipts and expenditures of each school, specifying the source of such receipts and the object of such expenditures

Thirteenth—To communicate to the city council, from time to time, such information within their possession as may be required.

AT MEETINGS ONLY—Sec. 24. None of the powers herein conferred upon the board of education of such cities shall be exercised by them except at a regular meeting of such board.

CONVEYANCES—Sec. 25. All conveyances of real estate shall be made to, and the title of all such as shall be acquired by condemnation, shall rest in the city in trust for the use of the schools, and no sale of real estate or interest therein used for school purposes or held in trust for schools, shall be made, except by the city council, upon the written

request of such board of education. [As amended April 22, 1899; in force July 1, 1899.]

CITY TREASURER—Sec. 26. All moneys raised by taxation for school purposes or received from the state common school fund, or from any other source for school purposes, shall be held by the city treasurer as a special fund for school purposes, subject to the order of the board of education, upon warrants to be countersigned by the mayor and comptroller, if there shall be any city comptroller appointed; if not, then the city clerk. [As amended April 22, 1899; in force July 1, 1899.]

EXPENDITURES LIMITED—Sec. 27. Said board of education shall not add to the expenditures for school purposes anything over and above the amount that shall be received from the state common school fund, the rental of school lands or property, and the amount annually appropriated for such purposes. If said board shall so add to such expenditure the city shall not, in any case, be liable therefor. And nothing herein contained shall be construed so as to authorize any such board of education to levy or collect any tax upon the demand, or under the direction of such board of education.

NO SCHOOL BOARD POWER—Sec. 28. All schools in such cities shall be governed as hereinbefore stated, and no power given to the board of education shall be exercised by the city council of such city.

AMENDMENT—Sec. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That article 6 of an act, entitled "An act to establish and maintain a system of free schools," approved and in force May 21, 1889, be and the same is hereby amended by adding thereto a new section, to be known as section 29, as follows:

MAY GRANT CERTIFICATES—Sec. 29. Boards of education in all cities having but one board exercising jurisdiction over the schools of the district, of which said city may be a whole or part, and having a population exceeding thirty thousand and not exceeding one hundred thousand inhabitants, as shown by the last preceding federal or school census, shall have power to examine all persons offering themselves as candidates for teachers, and when found well qualified to give them certificates. Any such certificate shall be held to authorize such teacher to receive compensation therefor from the public school fund. The examination herein provided for shall in every case extend to and include all the branches enumerated in the examination now, or which shall be hereafter required, by general law, to be given by county superintendents, and shall not be construed so as to dispense with the teaching in the public schools of this state of any study which is now, or may hereafter be prescribed by general law. Every applicant for a teacher's certificate shall pay to the board of education the fees which may be required to be paid to the county superintendent by general

law, and said board shall transmit the same monthly to said county superintendent.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed. [As amended April 24, 1899; in force July 1, 1899.]

MONTHS OF SCHOOL—It is the duty of a board of education to maintain school in the district for at least six months, and may provide for ten months.

All school boards may examine applicants for their schools in addition to the examination made by the county superintendent, and are not required to accept his certificate as final and conclusive. Generally speaking, boards do not make these additional inquiries and tests, but it is a right and a duty that should be performed, as the additional information would in many cases enable boards to make better selections of teachers.

OTHER BRANCHES—Boards of education and directors have the right to introduce other studies than those named in the school law, or they may submit the question to the voters at the annual election of members of the board.

POST STATEMENT—Boards of directors are required to post, at the place of voting for the information of the voters, a statement of receipts and expenditures for the year. Boards of education are required to publish in some newspaper, or pamphlet form, a report showing the number of pupils instructed in the preceding year, the several branches of study pursued by them, the number of persons between the ages of twelve and twenty-one unable to read and write, and the receipts and expenditures of such school, specifying the source of such receipts and the objects of such expenditures. This report is to take the place of the one which directors are required to make and post at the annual election.

VOTE REQUIRED—Boards of education, except in districts under special charter, have no authority to levy tax to build, to borrow money, or refund old bonds or loans, only by a vote of the people authorizing such. The law governing the building of a school house must be followed strictly by school boards. 23 Ill., App., (Smith) 629.

SPECIAL CENSUS—The law does not make it the duty of any officer or officers to take a special census. A board of directors may order such a census taken, but in doing so they should cause such order to be spread upon their record. The result of the count showing the number of inhabitants in the district should be returned to the clerk of the board, and by him entered upon the books of his office. If the returns show one thousand or more inhabitants, then it is the duty of the board to make an order for the election of a board of education at the next annual election of directors. If the board fails to take action, then the board of trustees may order a special count in the district, and the person or persons taking such special census must be sworn to the result and file the same with the trustees, and if the district is found to have one thousand or more inhabitants, the directors should arrange for the election of a board of education. Should the directors fail to perform their duty, it will be the duty of the township treasurer to order the election, the same as in other cases of failure or default on the part of directors. An election held in pursuance of the order of the treasurer will be legal, and the board of education elected at such election will be fully authorized to proceed to organize and take charge of all public schools of the district.

If a district changes from a board of directors to a board of education, no power nor duties are lost, and none added, except such as are

given to boards of education by law. The president of the board is elected annually by the people, but the board elects a secretary, either from their number, or they may select some person who is not a member of the board.

The president cannot be counted to make a quorum. It is his duty to preside at all meetings, sign orders and vote in case of a tie. He may perform such other duties as the board may impose upon him from time to time.

PETITION NOT REQUIRED—A petition of the legal voters of the district to authorize the trustees to sell real estate is not required in a district under the control of a board of education. The law authorizes the trustees to sell real estate upon the written request of the board.

NO PROVISION—We fail to find any provision in the law for filling vacancies in a board of education, but there can be no doubt that the law governing vacancies in boards of directors apply in case of a vacancy in a board of education.

LEGISLATURE—Special laws relating to schools may be repealed by the legislature; and such repeal leaves the matter just where it was prior to the special act. If the law so repealed related to a special district, then the property of the district vests in the trustees, and the funds belonging to such special district and held by special treasurer should be paid to the township treasurer.

Such repeal of the law for a special district opens the entire township or townships for redistricting, but if the trustees deem best they may not disturb the other districts, and proceed to erect a government for the district whose special law has been repealed, and order an election of a board of directors for such district. Section 15 of this article is clear, without further comment. 142 Ill., 650.

ASSIGNEE'S PERIL—School orders may be assigned or endorsed so as to give title to the assignee and empower him to sue in his own name. The assignee takes such orders on his own judgment and at his own peril. He must know the law and ascertain for himself what defences against collection. 68 Ill., 514.

ARTICLE VII.

TEACHERS.

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| <p>§ 1. Age and qualifications; graduates of county normal schools.</p> <p>§ 2. State certificates.</p> <p>§ 3. First and second grade certificates; subjects for examination; renewal and revocation; form of certificate.</p> <p>§ 4. Record by county superintendent.</p> <p>§ 5. Must have a certificate.</p> <p>§ 6. Subjects to be taught.</p> <p>§ 7. Examination by county superintendent.</p> <p>§ 8. Fee to be charged.</p> <p>§ 9. Moneys thus received paid to county treasurer.</p> | <p>§ 10. Annual institute.</p> <p>§ 11. No deduction of wages when attending institutes held on school days.</p> <p>§ 12. Responsible for the property of the district.</p> <p>§ 13. Must keep registers; form of register.</p> <p>§ 14. Schedules, or statements of attendance to be made; form of schedule.</p> <p>§ 15. Schedules to be delivered to directors; certificate of directors.</p> <p>§ 16. Teacher's wages payable monthly; unpaid orders to draw interest.</p> <p>§ 17. School month; holidays.</p> |
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TEACHER'S QUALIFICATIONS—Sec. 1. No teacher shall be authorized to teach a common school under the provisions of this act who is not of good moral character, at least eighteen years of age, if a male, or seventeen years of age, if a female, and who does not possess a certificate of qualifications as hereinafter provided for: *Provided*, that in any county in which a county normal is established, under the control of a county board of education, the diplomas of graduates in said normal school shall, when directed by said board, be taken by the county superintendent as sufficient evidence of qualification to entitle the holder to a first grade certificate; but such diplomas shall not be sufficient after two years from such graduation.

STATE CERTIFICATES—Sec. 2. The state superintendent of public instruction is hereby authorized to grant state certificates to such teachers as may be found worthy to receive them; such certificates shall be of two grades, and both shall be valid in every county and school district in the state. The higher grade shall be valid during the lifetime of the holder, and the lower grade shall be valid for five years. But state certificates shall only be granted upon public examination, of which due notice shall be given, in such branches and upon such terms and by such examiners as the state superintendent and the principals of the state universities may prescribe. Said certificates may be revoked by the state superintendent upon proof of immoral or unprofessional conduct. [As amended by an act approved April 28, 1893.]

RULES AND TERMS.

The rules and requirements for state certificates are in general as follows:

1. To furnish to the state superintendent, prior to examination, satisfactory evidence of good moral character.
2. To have attained, prior to examination, the age of twenty-one years.

3. To furnish to the state superintendent satisfactory evidence of having taught with decided success, not less than three years (twenty-one months), at least one year of which shall have been in this state. The year in this state shall have been at a time not more than five years previous to the time of examination.

FOR FIVE YEAR CERTIFICATE.

4. To pass a satisfactory examination in the following two groups of subjects:

Group 1. Reading, Orthography, Arithmetic, English Grammar, Geography, History of the United States, Civil Government, including the Constitution of the United States and the Constitution of Illinois; Pedagogics, with an original essay on some topic or topics connected therewith, to be suggested at the examination; School Law of Illinois.

Group 2. Algebra, Plane Geometry, Physics, Physiology and Anatomy, Botany, Zoology, General History, English Literature.

FOR LIFE CERTIFICATE.

5. For the life certificate the candidate will be examined in all the above subjects, and also, to greater extent, in one group of the following elective groups:

a. Group of Mathematics, including Algebra, Geometry, Trigonometry, Physics and Astronomy.

b. Group of Sciences, including Botany, Zoology, Geology, Chemistry.

c. Group of Languages, including Latin, Greek, German and French; two of these to be selected by the candidate.

Satisfactory evidence relative to character, length of time taught, and success, must be furnished before a candidate can be admitted to the examination.

Papers forwarded as testimonials must be original in all cases. If any teacher wishes the originals returned, copies thereof, for filing in the office, must be sent with the originals. When copies are so sent, the originals will be returned, but not otherwise.

NOTE—The above is varied each year in some respect, and made public about six months prior to the date for the examination of applicants.

EXAMINATIONS—Sec. 3. It shall be the duty of the county superintendent to grant certificates to such persons as may, upon due examination, be found qualified. Said certificates shall be of two grades; those of the first grade shall be valid in the county for two years, and shall certify that the person to whom such certificate is given is of good moral character, and is qualified to teach orthography, reading in English, penmanship, arithmetic, English grammar, modern geography, the elements of the natural sciences, the History of the United States, physiology, and the laws of health. Certificates of the second grade shall be valid for one year, and shall certify that the person to whom such certificate is given is of good moral character, and is qualified to teach orthography, reading in English, penmanship, arithmetic, English Grammar, modern geography, and the History of the United States: *Provided*, that teachers exclusively teaching music, drawing, penmanship, book-keeping, German, or any special study, shall not be required to be examined, except in reference to such special study; and, in such cases, it shall not be lawful to employ such teach-

ers to teach any branch of study, except such as they have been examined upon, and which shall not be stated in the certificate. The county superintendent may, in his option, renew said certificates at their expiration by his endorsement thereon, and may revoke the same at any time for immorality, incompetency, or other just cause. Said certificates may be in the following form, viz.:

....., Illinois, A. D.,
 The undersigned, having examined in orthography, reading in English, penmanship, arithmetic, English grammar, modern geography, the History of the United States, and methods of teaching, and being satisfied that is of good moral character, hereby certifies that qualifications in the above branches are such as to entitle to this certificate, being of grade, and valid in said county for year from the date hereof, renewable at the option of the county superintendent by his endorsement thereon.

Given under my hand and seal at the date aforesaid.

A. B.,
 County Superintendent of Schools.

[As amended by an act approved June 21, 1895.]

RENEWAL.

....., 1.....
 The within certificate is hereby renewed for year, from the day 1....., the date of its expiration.

.....
 County Superintendent.

COUNTY SUPERINTENDENT'S REVOCATION NOTICE.

....., 1.....
 To

You are hereby notified that the certificate of qualification held by you as a teacher in county, bearing date, 1....., is hereby revoked.

.....
 County Superintendent of County.

REMARK—If the certificate cannot be taken up from any cause, a notice in form as above should be inserted in some newspaper of the county. If the teacher surrenders the certificate and stops teaching, then the notices are unnecessary. When a certificate is not taken up, notice of revocation should be given to the school directors of the district employing the holder of such certificate, and the township treasurer should be notified not to pay any money to the teacher for time taught after the date of the revocation of the certificate.

IS A VIOLATION—That the law is in some instances violated by county superintendents there is little doubt, in granting certificates without an examination. For a county superintendent to do this is an open violation; but it is not only an open violation, but is a palpable violation of, and a disregard for, the law. The custom of adopting the examination of others as his own, and issuing certificates thereon, is neither in keeping with the letter nor the spirit of the law.

The law authorizes the county superintendent to renew certificates if he deems it proper to do so. There are a few cases in each county in which it is right and just to grant renewals, but, as a rule, renewing certificates is not the best for the schools, and too frequently results in retarding the progress of the educational system, and not unfrequently

favors the class of teachers that is ever ready to sit still and make no educational growth. There is but one case in which the county superintendent can legally grant a certificate without an examination, and that is to graduates of the county normal school of the county, if recommended by the county board of education within two years after graduation.

CANNOT RENEW—When a certificate has expired, the law gives the county superintendent no power to renew and revive such certificate. An effort to revive one by endorsement, though dead but a few days or even one day, is forbidden. To antedate a certificate is a violation of law, for which a county superintendent could be removed from office. The law permits a county superintendent to renew a certificate issued by his predecessor if done before expiration.

The law fixes the minimum age for females at seventeen years, and for males at eighteen years for a certificate; and while the statute regards persons under twenty-one years of age as infants, it will be well for the schools if county superintendents will keep this rule of law in mind when examining and licensing young immature boys and girls to teach in the public schools.

CANNOT EXAMINE HIMSELF—The county superintendent is authorized to issue certificates upon "due examination" to those found qualified to teach. He has no authority to issue certificates in any other way, except to graduates of a county normal school of his county. This rule of law will seem more apparent when it is considered that the county superintendent cannot issue to himself a certificate, for the simple reason, if no other, that there is no way by which the "due examination" can be made. Under the present law he could not legally teach in his county, though he might hold a state certificate.

IMPORTANT DUTY—No doubt licensing teachers is one of the most difficult duties which a county superintendent has to perform in his official way if he has the welfare and interest of the schools at heart. He is besought on every hand to admit this one and that one. Some demands come from relatives of the applicant, some from the church congregation, some from those who "stand in politically," some from those who want to get some money with which to go to school, and some that the applicant has an aged father or mother to support, etc., all urging to be favored with the much desired, but little merited "document," a certificate.

The plea that inferior and poor schools are better than none is not true in the general sense of the term, for in too many instances they are worse than no school, for the reason that faulty habits and false ideas of facts are implanted in the young minds by "school keepers" and bunglers, who are as ignorant of the laws of teaching as is a "Hottentot" of the fundamental principles of the constitution of the United States, and are difficult to remedy, and the effects are never altogether removed.

EXAMINING TEACHERS—The matter of examining and licensing teachers is in the hands of the county superintendent. He is to use his best judgment and discretion. In one of the sections above, the legislature uses the term "due examination," and states that the county superintendent must certify that those to whom he grants certificates are qualified to teach certain branches of study. There are various plans and methods used by examiners in the different counties, and it is quite true that different methods should be used in the same county and for different applicants. All this is left to the county superintendent. The two methods, oral and written, have much merit, but to combine the two is much better than either separately. In the two

methods taken together the examiner can much better test the applicant's ability to teach than he can do in the use of a single method.

MAKE INQUIRY—The county superintendent has the right and it is his duty to make inquiry as to the moral character and standing of an applicant for a certificate, but he has no right to seek to inquire into the applicant's religious or political opinions or belief. If he should seek to interrogate the applicant on this line, the person so interrogated has the right to decline to make an answer to such questions, and if the applicant possesses the scholarship and such other qualifications as fit him for teaching, the county superintendent has no right to withhold a certificate from him for the reason that he refused to answer questions concerning his religious or political beliefs. If an applicant is known to the county superintendent not to have such moral character as the teacher should possess, then he has the right to decline to examine him.

TWO GRADES—In this state the county superintendent is authorized to issue two grades of certificates aside from the special certificate which the law authorizes him to issue. About all the difference there is in the two grades is that one is valid in the county for two years, and the applicant is required to pass in three additional branches to those required for the one year certificate, viz.: Botany, zoology and physics. It goes without saying that the applicants for the first grade certificate should show more breadth of learning and scholarship than the mere additional knowledge of the three branches to entitle them to pass for this grade. All applicants who receive certificates should show that they possess a clear understanding and comprehension of the fundamental principles, laws, rudiments and primary rules of each branch provided by law for these certificates.

The rule followed by not a few county superintendents in extending the examinations to other topics or branches than those named in the school law, and not infrequently even prescribing certain text books which applicants must study, has caused more or less discussion as to the authority of the officer in such cases. Section 3, article VII. of the school law enumerates the topics in which applicants for teachers' certificates are to be examined. A candidate for a certificate cannot lawfully be required to pass an examination in topics other than those mentioned in the school law, and such as relate to his moral character and capability of teaching. The law does not intend that an applicant for a certificate should be constrained to study any *specific* text book on any branch or subject. The examiner may require some knowledge of methods of teaching, to be shown by general questions and answers on the topics enumerated in the law, that the applicant may show his fitness to teach. School boards may require an applicant for a school to show a knowledge of Latin or algebra before employing him as a teacher, but such requirements are aside from those required for a teacher's certificate. (See decision Illinois department.)

APPLICANT SHOULD SHOW—A person who receives a certificate for two years, should first show himself to have been a successful teacher, and demonstrate to the examiner that he understands the art and skill of teaching to a much greater extent than is required of the one who is granted a certificate for one year. If this is not the intention of the law in providing for the two grades, then the distinction is little more than mere form.

A person who has demonstrated his unfitness and incompetency to have charge of a school as a teacher should not be licensed to teach, though the scholarship of such person is of a high grade or rank.

The law, requiring *all* teachers to have certificates, most certainly

has an important object in view—which is no more nor no less than that *none* but teachers of approved character and ability should be employed in any school. This applies to substitute teachers as well as to all others.

DISCRETION—The law gives the county superintendent discretionary power in granting certificates, and in performing this duty he should act from most honest motives, keeping the interest of the schools and the applicants in mind. We quote from the supreme court of Indiana on this topic:

"The office of county superintendent belongs to the executive department of the state, and the statute does not confer upon the incumbent, either judicial or *quasi* judicial power, in the matter of licensing persons to teach in the common schools."

"The statute confers upon the county superintendent a discretion on the subject of licensing teachers, which is so far analogous to judicial discretion that he is protected from any claim for damages on account of any mistake in his decision, or error in his judgment, either in granting or withholding a license."

If a county superintendent withholds a certificate from a teacher through malice or ill will, or acts wantonly, rashly or wickedly in refusing the certificate, the teacher may recover damages at law, and in such cases the teacher is not compelled to prove personal malice, in order to show malice, that the jury may find malice. 15 Ill., 65; 45 Ill., 12; 2 Brad., 458; 104 Ind., 548.

The courts cannot compel a county superintendent to grant a certificate, but they may compel him to act upon the application for one. 45 Ill., 12; High's Legal Rem., Secs. 24, 35, 42.

DIRECT ATTACK—In a suit brought by a teacher to recover his wages, his certificate must be attacked directly, if any attack is made. The question that such certificate was granted, without an examination, is a question or point that cannot be raised to defeat the plaintiff in his suit to recover his pay or wages. Neither is it proper to raise the point that the certificate is not in the form which the statute says "may" be used. 86 Ill., 595.

MAY RECOVER—If a teacher is discharged illegally, he is entitled to recover damages, or he may apply for a *mandamus* to be permitted to comply with his contract. 36 Ill., 71.

RECORDS—Sec. 4. Each county superintendent shall also keep a record, in a book provided for that purpose, of all teachers to whom he grants certificates. Said record shall show the date and grade of each certificate and all renewals granted, and the name, age and nativity of each teacher; and shall give the names of male and female teachers separately. * * * * *

The county superintendent should keep the record as provided in this section in a well-bound book, and the entries should be full and correct. This record may prove to be highly valuable and important in many instances.

HOLD CERTIFICATE—Sec. 5. No teacher shall be entitled to any portion of the common school or township fund, or other public fund, or be employed to teach any school under the provisions of this act, who shall not, at the time he enters upon his duties as such teacher, have a certificate of qualification obtained under the provisions of this act from the superintendent of the state, or the county superintendent

of the county in which the school is located, entitling him to teach. [As amended by act approved June 19, 1893.]

Prior to the amending of this section, the law was quite different, hence the court decisions given are based on the old law, but in general will apply as the law now stands.

The law as now in force requires the teacher to have a valid certificate when he takes charge of the school, covering the entire time of the contract. A certificate obtained later, though antedated, is not sufficient. A certificate cannot legally bear any other date than the *date of examination*. 16 Ill., 147; 87 Ill., 255; 92 Ill., 293; 69 Ind., 80; 70 Ind., 575.

POWER TO LEVY—School boards are clothed with full power to levy taxes for supporting the schools, and all funds belonging to the schools must be paid out on orders of the school boards; but all orders must be for debts legally contracted, and no others. The law is too rigid or explicit to allow any of the public school funds to be paid to any person, directly or indirectly, for teaching, when such person did not hold a certificate, or the contract for which the money is paid, is illegal. 15 Ill., 65; 71 Ill., 532.

PUPIL TEACHER—It has been held that one pupil teaching others cannot be allowed as a substitute for an adequate and legal teaching force. If a school is too large for the teacher, and the work is more than he can perform, it is the duty of the school board to provide for an additional legally qualified teacher or teachers.

PERSONALLY LIABLE—If a district loses its portion of the state fund by permitting the school to be taught by one who did not hold a certificate, as the law requires, the directors are liable personally for the loss, together for loss of the amount paid the teacher illegally. And, in addition to this, they are liable to a fine under two counts, one of which a failure to perform their duties as directors, and the other for diversion of public funds. Rev. Statutes Ill.; 31 Wis., 333.

IS MASTER—It is true that school officers, as such, have certain rights in the school house; but the law will not allow them to interfere with the teacher while he keeps strictly within the line of his duty. Having been legally put in possession, he can hold it for the purposes and the time agreed upon, and no parent, not even the governor of the state, nor the president of the United States, has any right to enter in and disturb him in the performance of his duties. If persons do so enter, he should order them out; and if they do not go, on being requested to do so, he may use such force as is necessary to eject them. And if he finds that he is unable to put them out himself, he may call another to assist him, and if no more force is employed than is necessary to remove the intruder, the law will justify the teacher's act and the acts of those who assisted him. Wharton's Am. Crim. Law, 1256; 27 Me., 256; 2 Metcalf, 23; 6 N. Y., 608; 2 Selk., 641; 59 Pa., 266; 8 Eng., (T. L. R.) 78.

BRANCHES—Sec. 6. Every school established under the protection of this act shall be for instruction in the branches of education prescribed in the qualifications for teachers, and in such other branches, including vocal music and drawing, as the directors, or the voters of the district at the annual election of directors, may prescribe.

NUMBER OF EXAMINATIONS—Sec. 7. It shall be the duty of the county superintendents to hold meetings, at least quarterly, and oftener, if necessary, for the examination of teachers, on such days and

in such places in the respective counties, as will, in their opinion, accommodate the greatest number of persons desiring such examination. Notice of such meetings shall be published a sufficient length of time, in at least one newspaper of general circulation, the expense of such publication to be paid out of the school fund.

FEE—Sec. 8. The county superintendent shall in all cases require the payment of a fee of one dollar from every applicant for examination for a teacher's certificate, and for each renewal of such a certificate he shall require the payment of a fee of one dollar.

FUND EXPENDED—Sec. 9. All moneys so received from applicants for teachers' certificates, and from the registration fees herein-after provided for, the said county superintendent shall transmit monthly to the county treasurer, to be by him held and designated as the institute fund, and with such fund the county superintendent shall give the treasurer a list of the names of the persons paying such fees. Said fund shall be paid out by the county treasurer only upon the order of the county superintendent, and only to defray the expenses of the teachers' institute, which the county superintendent is, by the following sections, authorized to hold. The county superintendent shall take vouchers for all payments made out of the institute fund, and he shall render an account of such disbursements, with vouchers for the same, to the county board at their regular meeting in September annually.

INSTITUTE—Sec. 10. The county superintendent shall hold, annually, a teachers' institute, continuing in session not less than five days, for the instruction of teachers and those who may desire to teach; and, with the concurrence of the state superintendent of public instruction, procure such assistance as may be necessary to conduct said institute at such time as the schools of the county are generally closed: *Provided*, that two or more adjoining counties may hold an institute together. At every such institute, instruction shall be free to such as hold certificates good in the county (or counties where two or more join to hold an institute) in which the institute is held; but the county superintendent shall require all others attending to pay him a registration fee of one dollar, except those who have paid him an examination fee as required by section 8 of this article, and failed to receive a certificate.

TIME TO ATTEND—Sec. 11. The time, not exceeding three days in any one term, or five days in any one school year, during term time, actually spent by a teacher of any public school in this state in attendance upon a teachers' institute, held under the direction of the county superintendent of schools, shall be considered time lawfully expended by such teacher in the service of the district where such teacher is employed, and no deduction of wages shall be made for such absences. And it shall be the duty of the school officers and boards of education to allow teachers to close their schools for such attendance upon such institute.

CARE OF PROPERTY—Sec. 12. It shall be the duty of every teacher employed in the public schools of the state to see that the school property of the district, placed under his care and control, is not unnecessarily damaged or destroyed. And no teacher shall be paid any part of the school funds, unless he shall have kept and furnished schedules (when required by law) as hereinafter directed, and shall also have satisfactorily accounted for all books, apparatus and other property belonging to the district, which he may have taken in charge.

REGISTER—Sec. 13. Teachers shall keep correct daily registers of their schools, which shall exhibit the name, age and attendance of each pupil, the day of the week, the month and the year. Said register shall be furnished to the teachers by the school directors, and each teacher shall, at the end of his term of school, return his register to the clerk of the school board of the district. And no teacher shall be paid any part of the public funds unless he shall have accurately kept and returned the register as aforesaid.

ILLEGAL PRACTICE—School boards sometime indulge in the practice of allowing the teacher to commence his school and teach awhile without a certificate, and after the teacher has procured a certificate the board increases the pay of the teacher sufficiently to cover the time taught without a certificate. This point needs no argument more than to say that such acts are gross violations of the law and make the officers liable for the funds so paid out, and subject to a fine. 71 Ill., 532.

SCHEDULES—Sec. 14. In all districts controlled by a board of directors, teachers shall make schedules of the names of all scholars under twenty-one (21) years of age attending school, in the form prescribed by this act, and when scholars reside in two (2) or more districts, townships or counties, separate schedules shall be kept for each district, township or county. Boards of education may require teachers under their control to make schedules as herein directed, or to make statements certifying the number of days' attendance for each month, as shown by their registers, which statements shall be certified to by the board of education, and be subject to the same requirements concerning payment of teacher's salary and filing as those made by this act concerning schedules. The schedules to be made and returned by the teacher shall be, as near as circumstances will permit, in the following form, viz.:

Schedule of common school kept by at
in district No....., township No....., range No..... of the
..... principal meridian, in the county of, in the State
of Illinois. Names and ages of scholars residing in district No.....,
in township No..... north, range No..... west,county,
who have attended in my school during the time, beginning the
day of....., 1....., and ending the day of.....1.....,
during which time the school was in session school days.

Names.	Ages.	Days.
John Smith.....	10	15
Isaac Meisler.....	13	11
Sarah Danforth.....	16	20
Mary Newman	18	18
Grand total number of days' attendance.....		64
Males.....	2	
Females	2	
Number of scholars.....		4
Average daily attendance.....		3.2

And said teacher shall add up the whole number of days' attendance of each scholar, and make out the grand total number of days' attendance. He shall also note the whole number of scholars, giving the males and females separately; the average daily attendance, and shall set the age of each pupil opposite the name of such pupil, as in the form above prescribed, and shall attach thereto his certificate, which shall be in the following form, viz.:

I hereby certify that the foregoing schedule of scholars attending my school as therein named, and residing as specified in said schedule, to the best of my knowledge and belief, is correct.

A.....B....., Teacher.

SCHEDULES TO DIRECTORS—Sec. 15. When the teacher shall have completed his or her schedule or schedules as provided in the foregoing section, he or she shall deliver it to some one of the directors, who shall, if requested, give the teacher a receipt for the same. And it shall be the duty of the said director, in connection with at least one other director of the board, to carefully examine such schedule or schedules, and after correcting all errors, if any, if they shall find such schedule to have been kept according to law, they shall certify to the same as near as practicable, in the following form, viz.:

STATE OF ILLINOIS, } ss.
..... County. }

We, the undersigned directors of district No....., township No....., range No....., in the county aforesaid, certify that we have carefully examined the foregoing schedule and find the same to be correct, and that the school was conducted according to law; that the teacher is paid as per contract dollars per; that the sum of dollars is now due for services for the month ending; that said teacher has a legal certificate of grade, and that the property of said district in charge of said teacher has been satisfactorily accounted for.

Witness our hands, this day, A. D., 1.....

.....,
.....,
.....,

Directors.

WAGES—Sec. 16. Teachers' wages are hereby declared due and payable monthly, and upon certifying to the schedule or statement as hereinbefore provided for, the directors, or board of education, may at

once make out and deliver to the teacher an order upon the township treasurer for the amount named in the schedule or statement; which order shall state the rate at which the teacher is paid according to his contract, the limits of the time for which the order pays, and that the directors have duly certified a schedule covering the time specified in such order: *Provided*, that in case said order shall be presented to the township treasurer and not paid for want of funds, said treasurer shall certify on the back of such order the date of presentation as required by section 18 of article VI. of this act, and thereafter such order shall bear interest at the rate of seven per cent. per annum until paid, or until the said treasurer shall notify the clerk of the board of directors issuing such order that he has funds with which to pay the same. [As amended April 24, 1899; in force July 1, 1899.]

ENDORSEMENT ON TEACHER'S ORDER.

This order was presented to me for payment this day of , 1....., and was not paid for lack of funds.
....., Treasurer.

NOTICE OF FUNDS TO PAY ORDER.

To the clerk of school district No....., T....., R.....

You are hereby notified that I have funds on hand with which to pay order No....., issued to , for teaching in your district.

Dated this day of , 1.....
....., Treasurer.

SCHOOL MONTH—Sec. 17. The school month shall be the same as the calendar month, but teachers shall not be required to teach upon Saturdays, Sundays and legal holidays, these being New Year's, Fourth of July, Christmas and Thanksgiving, and fast days appointed by the national or state authority; nor shall they be required to make up the time lost by closing school upon such days or upon such special holidays as may be granted the schools by the board of directors.

WITHOUT PERMISSION—If a teacher leaves his school without obtaining permission of the board of directors, he can be discharged, and is not entitled to recover his wages. If the board discharges a teacher illegally, and without just cause, he may recover damages. 36 Ill., 71.

In case a teacher is discharged without just cause, and he is not allowed to teach, he cannot keep a register and make schedules as the law directs; therefore, in a suit to recover his pay, it is not necessary for him to show that he kept and made such reports, because it was impossible for him to comply with the requirements of the law. 17 Ill., 628.

GARNISHEE PROCESS—A teacher's wages must be paid to him, and to no other. Attachment or garnishee process will not reach a teacher's pay. If a teacher is a minor, the money must be paid to him, and not to his parent or guardian. 22 Ia., 171; 12 Mass., 375; 23 Me., 519, 3 Mass., 201; 4 Pa., S. & R., 207; 15 Mass., 272.

ILLEGAL ORDER—"An order issued by the school board to a teacher before the schedule is filed is illegal and void." 3 Ill., App., (Brad.) 349.

NOT TO PERMIT—If any school board allows and permits a teacher who does not hold a certificate to continue in the school, any patron or taxpayer of the district is entitled to an injunction to restrain the

teacher or the school board from continuing the school. The county superintendent has the right to a writ in such cases. 17 Ia., 228; 19 N. H., 170.

SUPERINTENDENT'S DUTY—Where such cases as the above occur, it is the duty of the county superintendent to notify the teacher and the school board that they are acting in violation of the law, and to warn them of the penalty, and at the same time inform them that he has notified the treasurer not to pay any orders issued by the board for such service as the teacher may have performed. When he has done this, he has discharged his duty in the case.

SHALL BE FREE—The payment of the fee mentioned in this section entitles the applicant to an opportunity, at the prescribed place and time, to pass the required examination for a certificate. After due trial, if the applicant fails, he must pay a fee of one dollar if he desires to enter the examination again. Should an applicant be low in some particular branch or branches, the county superintendent may, if he deems it proper, make such additional inquiries as are just. This he may do, and treat the matter as a continuation of the examination without charging an additional fee.

The county superintendent should report and pay to the county treasurer each month all fees collected, with the names of the persons paying the same.

A teachers' institute held in pursuance of the law, requiring applicants to pay a fee of one dollar, must continue *five* days or more, and should be held "at such time as the schools are generally closed."

WHEN HELD—It seems that the institutes are to be held when the schools are generally closed. To hold them when the schools are generally in session is not in keeping with the intention of the law. The fact that the law provides for teachers' meetings in term time is very evident that the intention of the law is to hold the *annual institute* when the schools are closed.

The county superintendent is authorized to employ instructors for the institute, but to do this he must have the concurrence of the state superintendent. If the person holds an instructor's license that is sufficient, but he is not authorized to pay any part of the institute fund to anyone for services as instructor, unless such person is properly authorized to teach in such institutes. "Concurrence" means employing a holder of an instructor's license issued by the state superintendent.

MUST HOLD LICENSE—No person is authorized to receive any part of the institute fund as an instructor in any institute, unless he shall hold a license from the state superintendent to do such work. The practice of employing "local talent" for instructors, and then interceding with the state superintendent that such "talent" may be granted an instructor's license, is not in keeping with the law that requires teachers to pay an examination fee, nor is it to the best interest of the schools and those who spend the time and money to attend the institute. Those who spend the time and pay the cost should have the best, which is only just good enough.

PURPOSE OF INSTITUTE—Institute instructors and conductors should bear in mind that the prime objects of the annual institute are:

(1) *To instruct in methods and principles, and in the subjects to be taught.*

(2) *To bring about a more uniform work in the schools of the county.*

(3) *To build up a stronger professional sentiment, and bring the young and the inexperienced into contact with the older and more experienced, and lead all to a higher plane and enkindle in them stronger*

and higher aspirations, and a deeper appreciation of schools and education.

If the institutes are made what they should be, they will be a great factor in the cause of education. The people will come to regard them as prime factors in bettering the conditions of our schools, and the influence thus exerted through the institutes and the high appreciation in which they are held, if properly conducted, cannot be measured, but will be of incalculable value, and produce in the people a keener interest in the cause of popular education and the schools.

In some counties the institute is continued for a longer time than for which the fund will pay, and the deficiency is made up by assessment and contributions. In such cases, the *five* days, or that part which is paid for from the fund, should be held first, and the time, not less than five days, should be fixed in advance, and so announced by the county superintendent, with the information that for such time the instruction will be free to all who have paid the fee for examination.

The law permits the county superintendent to act as an instructor in the institute, but for such service he is not entitled to any part of the institute fund. As compensation for such labor, he is allowed his *per diem* the same as for other official work.

WHO MAY ATTEND—All persons who have paid an examination fee since the last annual institute, whether they received certificates or not, are entitled to attend free; all others are required to pay a registration fee of one dollar each.

On reading the law, it appears that the holders of state and first-grade certificates are entitled to attend free, though the holder of a first-grade has not paid a fee since the last annual session of the institute, if the certificate is yet in force.

IS AN INSTITUTE—Any teachers' meeting, held under the direction of a county superintendent, is an institute, but no part of the institute fund can be used to pay the expense of such meetings.

The teachers are allowed to close their schools to attend these meetings, for not more than three days in one term, or more than five days in the the school year, and for such attendance on school days there shall be no deduction from their wages, and the days the school is closed on account of the teacher attending such institutes may be counted to make the six months which a school district is required to maintain school to entitle the district to a share in the school fund distribution.

That the teacher may be entitled to his pay for such days as he may attend these meetings, the attendance must be prompt and for full sessions. To drop in for a short time, and then spend the remainder of the day away from the meeting, will not satisfy the law. For full time the county superintendent should give the teacher a certificate, showing the time which the teacher spent in the meeting.

SEEK TO AVOID—In some instances school boards seek to avoid the payment for such time as the teacher may close the school to attend such institutes, by inserting in the contract with the teacher a clause requiring the teacher to make up the time, or lose the pay for those days. Such provisions in a contract are not binding, or, rather, such clauses are invalid. To sustain this, we quote:

"All authority of a school board to employ a teacher is traceable to some law. Such law is not only the source of their authority, but the limitation of it. The board cannot, by form of the contract they enter into with a teacher, give themselves greater power than the statute has conferred upon them. Any provision in a contract with a teacher,

giving them the power to do things which the law makes no provision for them to do, is most certainly invalid, and cannot be enforced."

The statute says that a laborer shall have two hours on election day in which to attend the election and vote, and that there shall be no deduction from his pay for such time. We may ask, "Can the employer make a contract with his men that they are to have no pay for the two hours?" If he makes such a contract, can he enforce it?" The answer is at once clear, if the spirit of the law is to be maintained.

TEACHER RESPONSIBLE—The law makes the teacher responsible for the school property in his charge or care. In this he is to exercise such care and oversight as a judicious person should exercise over his own property, and when he has done this and accounted for the same, his responsibility ceases.

FURNISH REGISTER—The school boards should furnish the teachers with registers that are in good form and well-bound, and the teacher should keep his register so as to show all the names of the pupils attending the school and the number of day's of attendance of each pupil. A teacher who does not keep his record so as to show all the law requires, is not entitled to his pay. It is the duty of the teacher, at the close of his term, to return the register to the secretary of the board, for it will be very helpful to him in furnishing information for the annual report of the trustees. It is the duty of the secretary to see that the register is properly kept and returned to him when the school term is closed.

PURPOSES—Schedules serve for two purposes, in showing the monthly attendance, and when filed with the treasurer are official evidence as to whether or not the district has had a legal school for the time necessary to entitle the district to share in the distributable fund. School boards are not authorized by law to issue an order to a teacher for his pay until he has made and filed with the board a schedule as contemplated in the law.

DIVIDED BY LINE—If a district is divided by a county or township line, there must be a schedule for the pupils living in each township or county; so also there must be a separate schedule for pupils attending on transfer.

SHOULD NOT APPEAR—Pupils paying tuition should not appear upon any schedule.

DEATH OF TEACHER—On the death of a teacher before the completion of his schedule, the directors may return it to the treasurer, when they have made all corrections, with their affidavit, showing the reasons why the same was not completed and signed by the teacher, with such other material facts in regard to its unfinished state as they may be able to find.

When such affidavit is made by the directors, and with the schedule filed with the treasurer it is sufficient warrant for him to pay the order for such services; and to justify the trustees in accepting the schedule and apportion school funds to the district.

MAKE ONE SCHEDULE—The law does not absolutely require each teacher in a school, where there are two or more teachers, to make a separate schedule. The several teachers may combine their schedules in one, in which case all should sign the same. If the pupils attending the school reside in two or more different townships or counties, there must be a separate schedule for each township or county.

Teachers of music or drawing are not excused from signing the schedules of the school. In making such schedules, the names of all teachers should appear in the heading. Such schedules, when properly made, serve all purposes and interests of the law.

STATEMENTS—Boards of education may require teachers to make schedules as provided in section fourteen (14), or to make statements certifying the number of days' attendance for each month as shown by the school register, which statements must be certified to by the board. The statement may be in the following form:

I,, teacher of a common school kept at, in district No....., township No....., in the county of, State of Illinois, hereby state that from the day of, 1., to the day of, 1....., said school was in session days, and the total days' attendance was days.

We hereby certify that the foregoing statement is correct.

, President.

, Clerk.

FILE SCHEDULES—School boards are required to file all schedules with the township treasurer on or before July seventh, and it would be a violation of law to issue to a teacher an order for wages for any time taught prior to July first, and for which the teacher had failed to furnish a schedule in due and proper form.

PAYABLE MONTHLY—The wages of a teacher is due and payable monthly, if he makes his schedules and report in proper form. On receipt of a schedule, it is the duty of the school board to examine the same, and, if correct, to issue to the teacher an order for his pay. Such orders should state, on their face, the rate of salary, the time for which the order pays, and that schedules have been properly made and certified. This information is the basis authorizing the treasurer to pay or endorse the order. On presentation of the order to the treasurer, if there are no funds in his hands with which to pay the order, the treasurer shall endorse the same, as provided by law, and make a record of the same, and from that date the order draws interest at the rate of seven per cent. per annum. When the treasurer has received funds with which to pay the order, he must notify, in writing, the clerk of the school board issuing the order that he holds funds with which to pay such order, such notice should be made a matter of record by the treasurer. Such orders cease to draw interest after the service of such notice. Interest for time after the service of the notice cannot be claimed by third parties. While such orders are negotiable, they do not stand on the same ground as that of common commercial paper. The holder of such orders is presumed to know the law, and he takes them subject to the provisions of the statute in relation thereto.

SCHOOL MONTH—The law provides that the school month shall be the calendar month. There appears to be much difference of opinion among teachers and school boards as to how to count the month and calculate the pay of the teacher, especially when the school month commences as on the 9th day of October. In this case the month would end on the 8th day of November. If a school should open on the 31st of January the month would end on February 27th, or the 28th, as the case may be in leap years. If there is a vacation in the month, the date on which the month ends is thrown that many days ahead. Our experience is that most of this confusion is brought about through vacations. The better way is for teachers to make up schedules for the fraction of the month taught and for the school board to pay for such time, and at the end of the term the teacher make up all lost time. Some confusion arises in computing the teacher's pay for fractional months, as some months have twenty, some twenty-three and some twenty-one days. In estimating the amount due the teacher, it is just and right to divide the amount of pay for the term by the

number of days in the term, as for illustration, the time is five months, or 110 days, and the salary for the term, \$132.00, the rate would be \$1.20 per day.

By the month, the rate is \$26.40; hence, for a single month of twenty days, the rate, per day, would be \$1.32, while for a month of twenty-one, twenty-two or twenty-three days the rate would differ, and, in paying for the fractional parts of months, there is quite a wide range of difference; hence, compute on the days in the term of contract.

Teaching, to make up lost time, must be on school days, and not on Saturdays or school holidays.

Some confusion arises as to what days are school holidays, and in this connection we will state that Thanksgiving day, Christmas, New Year's, Fourth of July and such special holidays as may be granted by the school board are school holidays.

MAY CLOSE SCHOOL—Teachers are allowed to close school on these days without deduction from their pay. If a teacher teaches on any of these days he cannot count the time to make up for some other day which was lost. If such holidays occur in a vacation, then the teacher is not entitled to pay for them.

There are other days mentioned in the statute as holidays, but they are holidays as to negotiable instruments, notes, drafts, etc., and not for school, unless so ordered by the school board.

DO NOT MAKE SCHOOLS—Law and courts do not make schools. While the law is liberal in providing the means, and the courts are equally liberal in construing the law in relation to school officers and teachers, but in all that liberality there are duties to be performed by those to whom the schools belong, the people, and they must see to it that the officers and teachers perform their duties well, or the schools will fall far short of doing what the law contemplates, and the courts ready to sustain. The schools should be made for the children, and not the children for the schools. As is the school so is its product. Doctor Raab's official words to teachers and school officers are not amiss here, as the following extract from them will show:

"The tendency of our schools is toward mechanical work. The teacher, as an operative in one of the old nail factories, is concerned in putting the same kind of a head on every nail. And, if the pupil, in the time allotted for any grade, by any means fails to pass, he is made to do the same grade work over, much to the detriment of his intellectual and moral discipline. He becomes listless and careless, because the work gone over during the preceding months cannot interest him, and he begins to doubt the sense of justice of his teacher or principal. In each case, the work of education is warped or foiled. As a rule, the bright, talented children are promoted much too fast, often to the detriment of their physical growth.

The ideal personality, the harmonious development of the individuality under the reign of the moral law, is the highest aim of all educational activity, the common end for the good of all pupils. How, then, must this *common* aim be applied to each individual pupil? Shall all pupils be treated according to the same pattern, be pressed into the same form, or has each individuality the right to develop freely and independently under the common aim of education? The duty of the educator is to regard the individuality, to treat it tenderly, and thus permit it to ripen into an harmonious moral character.

The common school, under existing conditions, may not be able to quite fulfill this ideal, but it should forever be the aim of the teachers in these schools to strive for that ideal, and, at least, to avert harm to the children. If the teachers will only see to it that grave errors are

avoided, the school will do its duty in this respect. I make free to quote a few beautiful remarks on this head from Comenius's *Didactics*: 'In the first place, there are children who are ingenious, anxious to learn, docile and apt for study beyond all others; they need only that food for wisdom be offered to them. The teacher needs only discretion that he may not permit them to make too great haste and thus grow weary and sterile before their time. There are others who are ingenious, but slow, though ready to learn. These need but the spur. In the third place, there are children who are ingenious and anxious to learn, yet, at the same time, stubborn and firm. Children of this kind generally hate school, and, as a rule, they are frequently given up as 'ne'er do wells' by their teachers; and yet do these same children make the best men when they are properly treated. Forward foals make the best horses when put under proper discipline. * * * *

Such horses remind us that many talented persons are lost because of the errors and blunders of their instructors who would rear horses into donkeys, and do not know how to treat free and self-conscious men. In the fourth place, there are docile pupils who are anxious to learn, but slow and difficult of comprehension. These may follow the tracks of the preceding; and, to make this possible for them, the teacher must let himself down to their weakness by not imposing any too difficult tasks, not judging them too severely, but rather bearing with them patiently, raising them up, encouraging and animating them so that they may take heart. It may be that these persons reach their aim *much later*, yet they endure longer, and what they have acquired is not easily lost. Fifth, some are stupid, and, at the same time, lazy and indolent; even they can be educated, provided they are not obstinate and stubborn. But their teachers need much skill and perseverance to succeed. Finally, there are some that are stupid, and, besides, naturally perverse and vicious, and generally spoiled. Because we are sure that everywhere in nature there may be found remedies for depravity and viciousness, and that trees which are naturally sterile may be made fruit-bearing by being transplanted, we must not give up hope, but try to combat and eradicate their obstinacy and perverseness at least.'

Too frequently teachers work only with those children who belong to the first three groups above named; the others are left to themselves. And, yet, they are the very ones who need the teacher's loving care and attention the most; the bright ones advance readily without any special effort on our part. Now, the individualization which parents and private tutors may practice in the work of instruction and discipline cannot be expected of the teacher in the common school; yet, if the teachers would learn but to classify the children according to Comenius's precept, many errors in school would be avoided. To uphold the weary, to strengthen the weak, to encourage the dull, to indulge the erring; these are the duties and prerogatives of every teacher who would work for the good of the race. Do not extinguish the spark of good will and insignificant success of these weak and struggling ones, but fan it into a flame. Be helpful to them, and I am sure a smile of recognition, a thankful look on their part, will cheer you more in your work than the success of the bright scholars. The modern fad of extensive and often repeated written examinations is neither a test of scholarship nor of culture. Quantity is made to stand for quality, and the real work of intellectual and moral discipline is perverted.

There are in every school children of defective sight and hearing. Because they cannot see and hear distinctly at a distance from the

teacher, they should be so placed in their classes that they may hear the teacher's voice and see what is pointed on map, blackboard, etc. Special tests should be made upon every child entering school to determine whether his sight and hearing are normal. The distance at which a child can hear a watch tick, and the distance at which a child must hold a book to distinguish characters will indicate whether hearing and sight are normal or abnormal, and will determine where such child should be placed in the class.

As you, my fellow-teachers, expect recognition according to your deserts, I beg of you to spare the individuality of the children committed to your care. If you do this, your work will be encouraging to you, and it will confer blessings on the generations to come."

ARTICLE VIII.

REVENUE-TAXATION.

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| § 1. Power to tax; limitations.
§ 2. Certificate of tax levy; time of return; form.
§ 3. Return of certificate to county clerk; map filed.
§ 4. District in two counties.
§ 5. Taxes computed by county clerk.
§ 6. Assessors to designate the district.
§ 7. County clerk to copy numbers of districts; tax to be uniform. | § 8. Certificate of amount due each district.
§ 9. Collector to pay township treasurer.
§ 10. Districts lying in two townships.
§ 11. Penalty for failure to pay.
§ 12. Blank books and notices.
§ 13. Failure to file certificate does not vitiate the assessment. |
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POWER; LIMIT—Sec. 1. For the purpose of establishing and supporting free schools, for not less than six nor more than nine months in each year, and defraying all the expenses of the same of every description; for the purpose of repairing and improving school houses, of procuring furniture, fuel, libraries and apparatus, and for all other necessary incidental expenses in each district, village or city, anything in any special charter to the contrary notwithstanding, the directors of such district, and the authorities of such village or city, shall be authorized to levy a tax annually upon all the taxable property of the district, village or city, not to exceed two and one-half per cent. for educational, and two and one-half per cent. for building purposes (except to pay indebtedness contracted previous to the passage of this act), the valuation to be ascertained by the last assessment for state and county taxes: *Provided*, that in cities having a population exceeding one hundred thousand inhabitants the board of education may establish and maintain vacation schools and play grounds under such rules as it shall prescribe. *And, provided, further*, that nothing herein contained shall be held to repeal or modify the limitations contained in section forty-nine (49) of an act entitled, "An act for assessment of property and providing the means therefor, and to repeal a certain act therein named." Approved February 25, 1898. [As amended April 21, 1899; in force July 1, 1899.]

LEVY—Sec. 2. The directors of each district shall ascertain, as near as practicable, annually, how much money must be raised by special tax for school purposes during the ensuing year, which amount shall be certified and returned to the township treasurer on or before the first Tuesday in August, annually. The certificate of the directors may be in the following form, viz.:

We hereby certify that we require the sum of dollars, to be levied as a special tax for school purposes, and dollars for building purposes, on the taxable property of our district, for the year A. D., 1.....

Given under our hands, this day of, A. D., 1.....

A. B.,	}	Directors district No....., township
C. D.,		No....., range No....., county
E. F.,		of, State of Illinois.

DEFINED—"Building purposes" means solely school houses. 171 Ill., 284.

RETURN LEVY—Sec. 3. It shall be the duty of the township treasurer to return the certificate mentioned in the foregoing section to the county clerk on or before the second Monday of August, and whenever the boundaries of the districts of the townships shall have been changed, the township treasurer shall return to the county clerk, with the certificates, a map of the township, showing such changes, and certified as required by the provisions of this act.

POWER TO LEVY—School boards are clothed with full power to levy taxes for the purpose of supporting the school and with which to purchase the necessary supplies. Much litigation has followed tax levies, and, in the exercise of the taxing power, school boards should act with great care and judgment, and strive to follow the law. Boards will do well to keep in mind that they are strictly limited to such as are necessary to carry out the law. 71 Ill., 651; 78 Ill., 136.

School boards are authorized to levy two and one-half per cent. for educational purposes, and no vote of the people can limit or extend their power in this particular, except to extend the school beyond nine months. The latter is a question upon which the law gives the people the right to vote. 56 Vt., 556.

CERTIFICATE VOID—"A certificate of tax levy made by one director after a meeting of the board at which a tax was voted, but no certificate was made or authorized, is void, though the other directors gave him permission to sign their names." 184 Ill., 240.

FOR THE PURPOSE—The fund raised by taxation must be used for the purpose for which it was collected. If money is collected for building purposes, it cannot be legally used for other purposes, neither must funds collected for general expense and educational purposes be used for building purposes. If there is a surplus in the building fund, after paying for the building, the board has the right to transfer such surplus to the general fund for general school purposes. 57 Ill., 118.

If the people vote down the proposition to build a school house, the directors are not excused from providing for schools. It is their duty to make provisions for schools by renting or leasing suitable buildings. 186 Ill., 331.

A tax levy for heating apparatus, sidewalks, repairs about the basement, or for drainage purposes, does not come under the head of building purposes, but belongs under the head of educational purposes. 186 Ill., 331.

School boards are not authorized to levy for building purposes, except in pursuance of a vote of the people, neither have they power to buy, move a school house, or locate a school site, unless in pursuance of such vote. 76 Ill., 189.

CHARTER PROVISION—In a school district, under special charter, if the charter so provides, the school board may levy for building purposes without a vote of the people. In the case of a taxpayer asking for an injunction against the school board of Jacksonville, Ill., the circuit court held that the board of education has the power to make such levy under the special charter.

In the tax levy certificate it will not be necessary to specify the

amount for the several items separately, if the aggregate amount does not exceed two and one-half per cent., but if the total amount is more than two and one-half per cent. then the items should be given separately. Where it is necessary to pay interest or principal of bonds, the levy for this purpose should be made under that clause of the law providing for building, etc. Directors and treasurers should see that certificates for tax levy are properly made and filed with the county clerk to authorize the tax, for a tax extended without such certificate is null and void, and cannot be collected. 108 Ill., 451.

CASH BASIS—The law very wisely is so framed as to empower school districts to levy and collect sufficient funds with which to run the schools on a cash basis, and school boards do not discharge their duty to the people when they do not levy and collect sufficient funds to support the schools on this basis, if run on economic business principles.

IN TWO COUNTIES—Sec. 4. When a district lies partly in two or more counties, the directors thereof shall ascertain, as nearly as practicable, the amount to be raised by special tax for school purposes, and shall prepare one certificate thereof for each county in which such district may lie, and deliver all of the said certificates to the township treasurer, who receives the tax money of such district, who shall return one each of such certificates to the county clerk of each county within which such district shall lie. On the first Monday of October, or as soon thereafter as may be practicable, annually, the county clerk of each of such counties shall ascertain the total equalized valuation of all the taxable property in that part of such district as shall lie in his county, and certify the amount thereof to the county clerk of each of the other counties in which such district may lie; and from the aggregate of such equalized valuation and from the certificate of the amount so required to be levied, such clerk shall ascertain the rate per cent. required to produce in such district the amount of such levy, and at that rate shall extend the special tax to be levied for school purposes in that part of such district lying in their respective counties. [As amended by act approved June 17, 1891.]

COMPUTE TAX—Sec. 5. According to the amount certified, as aforesaid, the county clerk, when making out the tax books for the collector, shall compute each taxable person's tax, in said district, upon the total amount of taxable property, as equalized by the state board of equalization for that year, lying and being in said district, whether belonging to residents or non-residents, and also each and every tract of land assessed by the assessor, which lies, or the largest part of which lies, in said district. The said county clerk shall cause each person's tax, so computed, to be set upon the tax book to be delivered to the collector for that year, in a separate column, against each taxpayer's name or parcel of taxable property, as it appears in said collector's books, to be collected in the same manner and at the same time and by the same persons as state and county taxes are collected.

DISTRICT NUMBER—Sec. 6. It shall be the duty of assessors, when making assessments of personal property, to designate the number of the school district in which each person so assessed resides; which designation shall be made by writing the number of such district opposite each person's assessment of personal property, in a column provided for that purpose, in the assessment roll returned by the assessor to the county clerk.

TAX EXTENDED—Sec. 7. It shall be the duty of the county clerk to copy said numbers of school districts, so returned by the assessor, into the collector's book and extend the school tax on each person's assessment of personal property, according to the rate required by the amount designated by the directors of the school district in which such person resides. The computations of each person's tax and the levy made by the clerk, as aforesaid, shall be final and conclusive: *Provided*, the rate shall be uniform and shall not exceed that required by the amount certified by the board of directors.

Section four (4) above clearly points out how a school board shall proceed in the matter of the tax levy where the district lies in two or more counties.

WHERE TAXED—Personal property, as a rule, is taxed where the owner resides, except where the property is permanently located, then, in such cases, it should be assessed in the district where located, and if the owner objects to paying such school tax, he must show that the property was not assessable in such school district. 26 Ill., 300; 31 Ill., 418; 65 Ill., 44.

CERTIFICATE OF AMOUNT DUE—Sec. 8. The county clerk, before delivering the tax book to the collector, shall make out and send by mail, to each township treasurer in the county, a certificate of the amount due each district, or fraction of a district in his township, of said tax so levied and placed upon the tax books.

CLERK SHOULD COMPLY—The county clerk should comply with this section, that the township treasurer may be able to settle with the collector.

COLLECTOR'S DUTY—It is the duty of the collector to settle with the treasurer of each district in his township, and if he has failed to collect all the tax due, he is required to make and deliver to the township treasurer delinquent lists, showing the taxes unpaid, that the township treasurer may be fully advised when he makes settlement with the county treasurer.

If the county clerk, in extending a school tax, extends at a rate that produces a small excess over the amount named in the certificate of levy, it will not make the tax illegal or void. 79 Ill., 597.

ERROR DOES NOT INVALIDATE—Errors in tax levy certificate will not invalidate school tax. If the certificate should appear to call for a greater tax than the law allows, but an amount within the limit is extended, the tax is legal and valid. 155 Ill., 276.

STATUTE OF LIMITATION—School districts cannot be deprived of the statute of limitations. 155 Ill., 441.

ERROR OF CLERK—If, through an error of the clerk, taxpayers in one district, who voluntarily pay tax levied by mistake upon their lands, to another district, cannot recover back the same, where the books were kept open and means of knowledge of all the facts existed,

although they supposed they were paying the tax of the district in which their lands lay. 160 Ill., 272.

COURT WILL NOT INTERPOSE—Where the levy of a school tax is within the power conferred upon the directors, a court of equity will not interpose, by injunction, to prevent the collection of the tax, because more has been levied than the court may find was necessary for the authorized purpose, in the absence of any charge of fraud or misconduct on the part of the directors.

Within the limit prescribed by the statute, the directors are clothed with large discretion in determining the amount necessary to be raised for maintaining schools, and to pay the ordinary and contingent expenses thereof. 136 Ill., 474.

NOT AUTHORIZED—A collector is not authorized to receive school orders or coupons for taxes, except such orders as are drawn on the funds in course of collection, and are so endorsed. A collector is bound for the full amount collected, less his commission, as allowed by law. 92 Ill., 260.

MUST PAY PROPER TREASURER—It is the express duty of a collector to pay all school funds collected by him to the proper school treasurer, and to no other person or persons, as the township school treasurer is the only proper custodian of such funds, except in special districts or such districts as are governed by special laws which provide for a special treasurer.

COLLECTOR PAY—Sec. 9. On or before the first day of April next, after the delivery of the tax books containing the computation and levy of the said taxes, or as soon thereafter as the township treasurer shall present the said certificate of the amount of the said tax, and make a demand therefor, the said collector shall pay to said township treasurer the full amount of said tax so certified by the county clerk, or in case any part thereof remains uncollected, said collector shall, in addition to the amount collected, deliver to said township treasurer a statement of the uncollected taxes for each district of such township, taking of the township treasurer his receipt therefor, which receipt shall be evidence as well in favor of the collector as against the township treasurer. The said treasurer shall enter the amount collected in his books under the proper heads, and pay the same out as provided for by this act.

FUNDS OF UNION DISTRICT—Sec. 10. When a district is composed of parts of two or more townships, the directors shall determine and inform the collectors of said townships, and the collector or collectors of the county or counties in which said townships lie, in writing, under their hands as directors, which of the treasurers of the townships, from which their district is formed, shall demand and receive the tax money collected by the said collectors as aforesaid.

REMARK—It seems to be a rule for the treasurer of the township in which the school is situated to receive all the money belonging to the school district. This rule is practical and more satisfactory when making the annual report.

COLLECTOR LIABLE—Sec. 11. If any collectors shall fail to pay the amount of said tax, or any part thereof, as required by the provisions of section nine (9) of this article, of this act, it shall be compe-

tent for the township treasurer, or other authorized person, to proceed against said collector and his securities in any action of debt upon his official bond, in any court of competent jurisdiction. And the said collector so in default shall pay twelve per centum upon the amount due, to be assessed as damages, which shall be included in the judgment rendered against him: *Provided*, no collector shall be liable for such part of said tax as he shall be able to make appear he could not have collected by law, until he has collected or may be able to so collect such amount.

ASSESSOR'S BOOKS—Sec. 12. It is hereby made the duty of the proper officers in preparing blank books and notices for the use of assessors to provide columns and blanks for the use of assessors, so that they may designate the number of the school district, as provided in section six (6) of this article of this act.

FAILURE TO FILE CERTIFICATE—Sec. 13. A failure by the directors to file their certificates, or of the township treasurer to return the same to the county clerk in the time required by this act, shall not vitiate the assessment, but the same shall be as legal and valid as if completed in the time required by law.

SUIT ON BOND—In bringing suit under section eleven above, on a collector's bond, the action should be brought in the name of the people. If it is desired to recover the penalty with the amount due from such collector, it is necessary that the certificate of the county clerk, showing the amount due, be presented to such delinquent collector. The penalty cannot be recovered where such certificate has not been so presented. 67 Ill., 339.

ARTICLE IX.

BONDS.

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| <p>§ 1. Vote necessary to borrow money; limit of sum borrowed.</p> <p>§ 2. Registry of bonds.</p> <p>§ 3. Money paid into school treasury of township; cancellation of bonds.</p> <p>§ 4. Election for borrowing money; form of notice.</p> | <p>§ 5. Judges.</p> <p>§ 6. Poll book returned; penalty for failure to return poll book.</p> <p>§ 7. Refunding school district bonds.</p> |
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BOND ISSUE—Sec. 1. For the purpose of building school houses or purchasing school sites, or for repairing and improving the same, the directors of any school district, when authorized by a majority of all the votes cast at an election called for that purpose, may borrow money, issuing bonds signed by not less than two members of said board of directors, in sums of not less than one hundred dollars (\$100), and bearing interest at a rate not exceeding seven per centum per annum: *Provided*, that the sum borrowed in any one year shall not exceed five per cent. (including existing indebtedness) of the taxable property of the district, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness. [As amended April 24, 1899; in force July 1, 1899.]

BOND REGISTRY—Sec. 2. All bonds authorized to be issued by virtue of the foregoing section before being so issued, negotiated and sold, shall be registered, numbered and countersigned by the school treasurer of the township wherein the school house of such district is, or is to be located. Such register shall be made in a "bond register" book to be kept for that purpose, and in this register shall first be entered the record of the election authorizing the directors to borrow money, and then a description of the bonds issued by virtue of such authority as to number, date, to whom issued, amount, rate of interest and when due.

PROCEEDS PAID TREASURER—Sec. 3. All moneys borrowed under the authority granted by this article of this act, shall be paid into the school treasury of the township wherein the bonds issued therefor are required to be registered, and, upon receiving such moneys, the treasurer shall deliver such bond or bonds issued therefor to the parties entitled to receive the same, and shall credit the funds received to the district issuing bonds. The treasurer of said township shall enter in the said "bond register" the exact amount received for each and every bond issued. And when any such bonds are paid, the said township treasurer shall cancel the same and shall enter in the said "bond register," against the record of such bonds, the words, "paid and cancelled the day of, A. D., 1.....," filling the blanks with the day, month and year corresponding with the date of such payment.

ELECTION FOR BORROWING MONEY—Sec. 4. Whenever it is desired to hold an election for the purpose of borrowing money, as provided for in this article of this act, the directors of the district in which such election is to be held, shall give at least ten days' notice of the holding of such election, by posting notices in at least three of the most public places in such district. Such notices shall specify the place where such election is to be held, the time of opening and closing the polls, and the question or proposition to be voted upon, which notice may be substantially in the following form, viz.:

NOTICE OF ELECTION.

Public notice is hereby given, that on the day of, A. D., 1....., an election will be held at school district No....., in township No....., range No....., of the principal meridian, in county, Illinois, for the purpose of voting "For" or "Against" the proposition to issue the bonds of said school district No..... to the amount of dollars due (here insert the times of payment, giving the amount falling due each year, if the bonds mature at different dates), which bonds are to bear interest at the rate of per cent. per annum, payable..... annually.

The polls of said election will be opened at o'clockM., and will remain open until o'clockM.

Dated this day of, A. D., 1.....

A. B.,

C. D.,

E. F.,

Directors.

ELECTION—Sec. 5. At such election two of the directors of such district shall act as judges and one of said directors shall act as clerk. In case either or any of said directors shall fail, from any cause, to be present or to act at such election, at the time of opening the polls thereof, the legal voters assembled shall choose, from their number, persons to act as such two judges, and a clerk of said election. The said judges and the said clerk shall take and subscribe the oath required of judges and clerks of an election held for state or county officers, and such oath may be administered in the same manner, as is or may be provided by law for administering the oath to judges and clerks at a state or county election. At such election all votes shall be by ballot. In districts which have adopted the provisions of "An act regulating the holding of elections, and declaring the result thereof in cities, villages and incorporated towns in this state," approved June 19, 1885, the said election shall be held under the provisions of said act.

RETURNS—Sec. 6. Within ten days after every such election, the judges shall cause the poll-book to be returned to the township treasurer, who is required to register such bonds, with a certificate thereon showing the result of such election, which poll-book shall be filed and safely kept by the said township treasurer, and shall be evidence of such election. For a failure to return such poll-book to such treasurer

within the time prescribed, the judges of said election shall severally be liable to a penalty of not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100), to be recovered in a suit in the name of the people of the State of Illinois, before any justice of the peace, and, when collected, shall be added to the township school fund of the township in which said treasurer resides.

REFUNDING BONDS—Sec. 7. In all cases where any school district has heretofore issued or may hereafter issue bonds, or other evidences of indebtedness, for money on account of any public school building or other public improvement, or for any other purposes which are now binding and subsisting legal obligations against said school district, and remaining outstanding, and which are properly authorized by law, the proper authorities of such school district may, upon the surrender of any such bonds or other evidences of indebtedness, or any number thereof, issue in place or in lieu thereof, or to take up the same, to the holders or owners of the same, or to other persons for money with which to take up the same, new bonds or other evidences of indebtedness, in such form, for such amount, upon such time, not exceeding the term of twenty (20) years, and drawing such rate of interest, not exceeding seven (7) per centum per annum, as may be determined upon; and such new bonds or other evidences of indebtedness so issued shall show, on their face, that they are issued under this act: *Provided*, that the issue of such new bonds in lieu of such indebtedness shall first be authorized by a vote of the legal voters of such school district voting at an election called and conducted as other elections provided for by this article of this act: *And, provided, further*, that such bonds or other evidences of indebtedness shall not be issued so as to increase the aggregate indebtedness of such school district beyond five (5) per centum on the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes prior to the issuing of such bonds or other evidences of indebtedness. [As amended April 24, 1899; in force July 1, 1899.]

CREATE DEBTS—School districts are not authorized to create any debts, except for building, repairing or purchasing school houses, buying school sites and improving the same. This includes all for which they may contract debts, except for teaching. School boards have such power as the statute gives them, and such others only as are necessary to enable them to carry into effect the powers granted. 72 Ill., 502.

VOTE REQUIRED—If a school house is to be enlarged, it requires a vote of the people to authorize the board to act. If the house is in need of a new roof, or a floor, etc., the board can make the repair on its own motion, but if there is no fund with which to make the repairs, then the board must ask the people to authorize the board, by vote, to borrow money. In such cases the vote is taken on the question of borrowing money for repairs. School boards and the people are limited in power as to contracting indebtedness to an amount not exceeding five per cent. on the last assessment roll. Const. Ill., Art. 9, Sec. 12; 125 Ill., 600.

Bonds cannot be issued for a longer period than twenty years, nor can the five per cent. be exceeded for the purpose of paying outstanding bonds.

TIME ORDERS—A vote to borrow money, and "execute bonds," will allow the school board to issue a time order drawing interest, or a promissory note drawing interest, and such order, note, etc., will be legal and binding. 91 Ill., 402.

School boards should use care in calling and conducting elections at which the question of borrowing money is to be voted upon, and in making their record it should include a copy of the election notice, as such notices are one of *the* essential parts of the record.

BALLOT TO CONFORM—The ballots must conform to the notice, and there must be a majority for a proposition before the board is authorized to act. If, in the notice, the proposition is to borrow six hundred and fifty dollars, and ten votes are for the proposition and eleven votes are for borrowing five hundred dollars, it cannot be considered that any authority has been given the board to borrow the less sum, for the reason it is not the proposition that was submitted, and that the proposition that was submitted has failed because there are eleven votes against it. If a vote is not taken upon a proper notice, the directors are given no power to act, and bonds issued upon such a vote would not be a legal claim against the district. 93 Ill., 240; 98 Ill., 632.

IMPORTANT DUTY—A district, when issuing bonds or evidence of indebtedness, should keep a record of the same, showing all the facts connected therewith, as the date, number, amounts of the different bonds, rate of interest, and when due, etc., etc. School bonds and such evidences of indebtedness may not be sold for less than par.

SALE OF BONDS—From the wording of the law, it seems that school boards are not obliged to sell the bonds for cash. The board may buy a house and site with such bonds, or contract with parties to build a house and take the bonds in payment. 98 Ill., 335.

This plan of disposing of the bonds is not a safe rule, and should not be followed by school officers in transacting the business of the people. The rule laid down by the supreme court of one of the sister states is much more safe. 16 Neb., 182.

MEMBERS NOT TO PURCHASE—Members of school boards do, at times, take the bonds of their districts, paying for them in cash at par. Such sales are illegal, and contrary to law and good policy. 54 Ill., 338; 94 Ill., 528.

WHERE PAYABLE—School bonds, and the interest thereon, and school orders are payable at the office of the township treasurer, and may not be made payable at any other place. 22 Ill., 147; 31 Ill., 529; 68 Ill., 530.

BONDS REGISTERED—Since the above decisions were rendered, the law has been changed, by providing for the registration of the bonds with the state auditor. There can be nothing gained by such registration, except when the bonds are to be sold away from home at some distance. In such cases the state auditor provides for the payment of the interest through the state treasurer, by seeing that a tax is annually levied and collected from the district, for the purpose of paying the interest on such bonds.

ILLEGAL BONDS—Bonds given by a school board to obtain money which was not borrowed or used for any purpose for which the board was authorized, by its charter, to borrow money or issue bonds, are void. 155 Ill., 441.

ARTICLE X.

COUNTY CLERK.

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| <p>§ 1. To furnish to county superintendent a list of trustees elected.</p> <p>§ 2. To file papers relating to changes in district boundaries; penalty for failure to do so.</p> <p>§ 3. To furnish certificate of equalized value of taxable property in case of district in two counties.</p> <p>§ 4. To furnish certificate of equalized value of taxable property to any district.</p> | <p>§ 5. To compute tax; to copy the numbers of districts; to extend tax and to send certificate of amount due each district, etc.</p> <p>§ 6. To certify to bills of county superintendents, and to transmit them to state auditor.</p> <p>§ 7. To record land sales reported by county superintendent.</p> |
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FURNISH LIST—Sec. 1. In all cases where, by any provision of laws, the returns of any election for school trustees are made to the county clerk of any county, it shall be the duty of the county clerk, within ten days after such returns have been made to him as aforesaid, to furnish to the county superintendent of schools a list of all such trustees so returned to him, and the township from which the same have been so returned.

FILE MAP—Sec. 2. Whenever any change shall be made in the boundaries of any school district, and a written statement or record of such change shall be delivered to the county clerk of such county, it shall be the duty of said county clerk to file such statement or record, and all papers relating thereto, and duly record the same in the records of his office; and, in case of neglect or failure so to do, the said county clerk shall be liable to a penalty of twenty-five dollars (\$25), to be recovered by an action of debt before any justice of the peace, at the suit of the county superintendent, for the benefit of the school fund of the said county.

CERTIFICATE OF VALUATION—Sec. 3. Whenever any school district lies partly in two or more counties, it shall be the duty of the county clerk of each county in which any part of such district lies to furnish, upon request, to the directors of such district a certificate showing the last ascertained equalized value of the taxable property in that part of such district lying in such county.

VALUATION CERTIFICATE—Sec. 4. It shall be the duty of the county clerk to furnish to the directors of any school district, or to the board of education in districts having a board of education, upon request, a certificate showing the last ascertained equalized value of the taxable property of such district, as the same appears of record in his office.

EXTEND TAX—Sec. 5. It shall be the duty of the county clerk, when making out the tax books for the collector, to compute each taxable person's tax in each school district, upon the total amount of taxable property, as equalized by the state board of equalization for that year, lying and being in such district, whether belonging to residents or non-residents, and also each and every tract of land assessed by the assessor which lies, or the largest part of which lies, in such district. Such computation shall be made so as to realize the amount of money required to be raised in such district, as shown and set forth

in the certificate of tax levy, made out by the directors of such district, and filed with the township treasurer, as required by the provisions of this act. The said county clerk shall cause each person's tax, so computed, to be set upon the tax book to be delivered to the collector for that year, in a separate column against each taxpayer's name, or parcel of taxable property, as it appears in said collector's books, to be collected in the same manner, and at the same time, and by the same person, as state and county taxes are collected. In making up the tax books to be delivered to the collectors of taxes, the county clerk shall copy into such tax books the number of the school district set opposite to each person's assessment of personal property by the assessor making the assessment of such person, and to extend the school tax on each person's assessment of personal property, according to the rate required by the amount designated by the directors of the school district in which such person resides, as shown by said certificate of tax levy. The computation of each person's tax and the levy made by the clerk, as aforesaid, shall be final and conclusive: *Provided*, that the rate shall be uniform, and shall not exceed that required by the amount certified by the board of directors. The said county clerk, before delivering the tax book to the collector, shall make out and send by mail to each township treasurer of the county a certificate of the amount due each district, or fraction of a district, in his township, of said tax so levied and placed upon the tax books.

SHOULD DEMAND CERTIFICATE—The county clerks in many of the counties fail to make the certificate required, thus leaving the township treasurers and collectors to make settlement. The treasurers should demand this certificate from their clerk.

TO CERTIFY BILL TO AUDITOR—Sec. 6. Whenever the county board of any county shall have audited the itemized bills of the county superintendents of schools or their assistants, as required by the provisions of this act, it shall be the duty of the county clerk of such county to certify to such act, and transmit the said bills to the auditor of public accounts, who shall, upon the receipt of them, remit, in payment thereof to each superintendent, his warrant upon the state treasurer for the amount certified to be due him; and the auditor, in making his warrant to any county for the amount due from the state school fund, shall deduct from it the several amounts for which warrants have been issued to the county superintendents of said county since the next preceding apportionment of the state school fund.

RECORD REPORT—Sec. 7. The county clerk of each county shall preserve and record in a well-bound book to be kept for that purpose, the report of the county superintendent, made to the county board at the first regular term of such board in each year, relating to the sale of school lands, the amount of money received, paid, loaned out and on hand, belonging to each township fund in his control, and the statement copied from the loan book of such county superintendent, showing all the facts in regard to loans, which are required to be stated on the loan book.

ARTICLE XI.

COUNTY BOARD.

§ 1. Powers of the county board defined.

§ 3 Statement of land sales by the county superintendent.

§ 2. Duties of the county board defined.

POWER—Sec. 1. The county board of each county of this state shall have power—

First—To approve the bond of the county superintendent of schools.

SURETY BONDS—As the law now reads, concerning bonds with personal security, many whose duty it is to approve and accept bonds of county superintendents and school treasurers, have some doubt about the legality of accepting bonds made by a surety company. That such bonds are authorized by law, there can be no question, and the strongest evidence that such bonds are legal, etc., is the law itself. If the company offering the bond is authorized to do business in the state, the officers have the right to accept such in lieu of personal bonds. The statute reads:

"That whenever any bond, recognizance or other obligation is, by law or charter, ordinances, rules or regulations of the state, or of any municipality, board, body, organization, court, judge or public officer required, or permitted to be made, given, tendered or filed with surety or sureties, and whenever the performance of any act, duty or obligation, or the refraining from any act is required or permitted to be guaranteed, such bond or obligation, recognizance or guaranty, may be executed by a surety qualified as hereinafter provided; and such execution, by such company of such bond, obligation, recognizance or guaranty, shall be in all respects a full and complete compliance with every requirement of law, charter, ordinance, rule or regulation that such bond, obligation, recognizance or guaranty shall be executed by one surety, or by one or more sureties, or that such sureties shall be residents, or householders, or freeholders, or either, or both, or possess any other qualifications; and such company may be released from its liability of any such obligation upon the same terms and conditions as are by law prescribed for the release of personal sureties. * * * * That all acts, and parts of acts inconsistent with this act, be and they are hereby repealed." Hurd's Revised Statute, 462, (1899.)

Second—To increase the penalty of the bond of the county superintendent of schools beyond twelve thousand dollars (\$12,000) if, in the discretion of said county board, such bond should be so increased.

Third—To remove the county superintendent of schools from office for any palpable violation of law or omission of duty.

NOTE—This grant of power is not annulled by the repeal of section 7, article II.

Fourth—To require the county superintendent of schools, after notice given, to execute a new bond, conditioned and approved as the first bond, whenever in the discretion of the county board such new bond is necessary: *Provided, however*, that the execution of such new bond shall not affect the old bond or the liability of the security thereof.

Fifth—To require the county superintendent of schools to make the reports to such board provided for by law, and to remove him from office in case of neglect or refusal so to do.

Sixth—In counties having not more than one hundred (100) schools, the board may limit the time of the superintendent of schools: *Provided*, that in the counties having not more than fifty (50) schools, the limit of time shall not be less than one hundred and fifty (150) days a year; in counties having from fifty-one (51) to seventy-five (75) schools, not less than two hundred (200) days a year, and in counties having from seventy-six (76) to one hundred (100) schools, not less than two hundred and fifty (250) days.

Seventh—Said county board shall authorize the county superintendent of schools to employ such assistants as he needs for the full discharge of his duties, and said county board shall fix the compensation to be paid therefor, which compensation shall be paid out of the county treasury.

DUTIES OF BOARD—Sec. 2. It shall be the duty of the county board of each county of this state—

First—To provide for the county superintendent of schools a suitable office with necessary furniture and office supplies, as is done in the case of other county officers.

Second—When the office of county superintendent of schools shall become vacant by death, resignation, removal or otherwise, to fill the same by appointment. And the person so appointed shall hold his office until the next election of county officers, at which election the said board shall order the election of a successor.

Third—To examine and approve or reject the report of the county superintendent of schools made to such board, and the notes and securities taken by such superintendent for school funds.

Fourth—At the regular meeting in September, and as near quarterly thereafter as such board may have regular or special meetings, to audit the itemized bills of the county superintendent, and of his assistants, for their per diem compensation and expenses allowed by law for visiting schools.

EXAMINE REPORT—Sec. 3. At the first regular term of the county board, in each year, the county superintendent shall present to the county board of his county—

First—A statement showing the sales of school lands made subsequent to the first regular term of the previous year, which shall be a true copy of the sale book (book B).

Second—Statements of the amount of money received, paid, loaned out and in hand, belonging to each township or fund under his control, the statement of each fund to be separate.

Third—Statements copied from his loan book (book C), showing all the facts in regard to loans which are required to be stated on the loan book.

All of which the county board shall thereupon examine and compare with the vouchers, and the said county board, or so many of them as may be present at the meeting of the board, shall be liable

individually to the fund injured and to the securities of the county superintendent, in case judgment be recovered of the said securities, for all damages occasioned by a neglect of the duties, or any of them, required of said board by this section: *Provided*, nothing herein contained shall be construed to exempt the securities of said county superintendent from any liability as such securities, but they shall still be liable to the fund injured the same as if the members of the county board were not liable to them for neglect of their duty.

EXAMINE VOUCHERS, ETC.—It is the duty of the county board to examine the accounts, vouchers, books, and reports of the county superintendent at their annual meeting in September. While the powers of the county board are limited as to directing the superintendent as he is clothed with discretionary power in dealing with the funds under his control, it is the duty of the board to verify his accounts and reports, and here their authority ends, unless the county superintendent violates the law, then they have the power to remove him or hold him on his bond. It is a paramount duty of this officer, as well as all other public officers, to keep his books and records in a systematic way and make such reports as shall be accurate and satisfactory to the board and the public. It should be the pride and aim of a county superintendent to so conduct the administration of his office as to court inspection and merit approval. If the county superintendent contracts bills which the board did not authorize, and they fail to audit the accounts, the superintendent will have to pay them himself.

CHILDREN IN POOR HOUSE—The statute makes it the duty of the county board to audit and pay the tuition of pupils kept at the poor house and attend the public school in the district where such poor house is located, as the law provides that such children shall have the right to attend such school, and it is the duty of the county board to provide such children with the necessary books, etc.

ARTICLE XII.

SCHOOL FUND.

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| <p>§ 1. To consist of a two-mill tax; interest of school fund proper and of surplus revenue.</p> <p>§ 2. State to pay interest.</p> <p>§ 3. Dividend to counties made by State Auditor.</p> <p>§ 4. Warrants issued by the State Auditor, and received by the collectors by State Treasurers.</p> <p>§ 5. County superintendent to proceed against collector on his refusal to pay.</p> | <p>§ 6. Proceeds of the sale of sixteenth section, etc., constitute principal of township fund, etc.; interest distributed.</p> <p>§ 7. Moneys paid out upon orders.</p> <p>§ 8. Form of orders; filing of orders.</p> <p>§ 9. Union districts; receipts to be taken.</p> <p>§ 10. Loans in districts under a special charter.</p> |
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DISTRIBUTABLE FUND—Sec. 1. The common school fund of this state shall consist of the proceeds of a two-mill tax to be levied upon each dollar's valuation of the property in the state, annually, until otherwise provided by law; the interest on which is known as the school fund proper, being three per cent. upon the proceeds of the sales of the public lands in the state, one-sixth part excepted, and the interest on what is known as the surplus revenue, distributed by act of congress and made a part of the common school fund by act of the legislature, March 4, 1837.

RATE OF INTEREST—Sec. 2. The state shall pay the interest mentioned in the preceding section at the rate of six per cent. per annum, annually, to be paid into, and become a part of, said school fund.

SOURCES OF FUNDS—Since 1872, in which year the legislature appropriated one million dollars for school purposes in lieu of the two-mill tax, and in the twenty-third clause of the act making appropriations for the expense of the state government, this amount was appropriated to the counties from the state school fund, and authority was given to the auditor of public accounts to "issue his warrant, on the proper evidence that the amount distributed had been paid to the county superintendents." The same course has been followed each year since. The auditor makes the distribution on the United States census—hence a reapportionment takes place every ten years in this fund.

AUDITOR'S WARRANTS—Sec. 3: On the first Monday in January in each and every year next after taking the census of the state, by federal or state authority, the auditor of public accounts shall ascertain the number of children in each county in the state under twenty-one years of age, and shall thereupon make a dividend to each county of the sum from the tax levied and collected under the provisions of the first section of this article of this act, and of the interest due on the school fund proper and surplus revenue, in proportion to the number of children in each county under the age aforesaid, and issue his warrant to the superintendent of schools of each county upon the collector thereof. Upon presentation of said warrant by the county superintendent to the collector of his county, said collector or the treasurer

shall pay over to the county superintendent the amount of said warrant out of the first funds which may be collected by him and not otherwise appropriated by law, taking said superintendent's receipt therefor.

STATE TREASURER—Sec. 4. The said warrants issued by the auditor of public accounts for the school fund tax, and for the interest of the school fund proper and surplus revenue, shall be received by the state treasurer in payment of amounts due the state from county collectors; and on presentation by the state treasurer of said warrants to said auditor, he shall issue his warrant to said treasurer of the school fund for the amount of the school fund tax warrants, and on the revenue fund for the amount of the warrants for interest on the school fund proper and surplus revenue. Dividends shall be made as aforesaid, according to the proportions ascertained to be due to each county annually thereafter, until another census shall have been taken, and then dividends shall be made and continued as aforesaid, according to the last census.

Note.—The interest mentioned in section two is the interest on the several funds which the state has borrowed: The school fund proper, the seminary fund, the college fund and the surplus revenue fund, in aggregate somewhat more than one million one hundred sixty-five or sixty-six thousand dollars. The common school fund receives of the interest on this loan about fifty-five thousand dollars annually, and the state normal schools receive about thirteen thousand.

FAILURE TO PAY—Sec. 5. If any collector shall fail or refuse to pay the amount of the aforesaid auditor's warrant, or any part thereof, by the first day of March, annually, or as soon thereafter as it may be presented, it shall be competent for the county superintendent to proceed against said collector and his securities in an action of debt, in any court having competent jurisdiction, and the said collector shall pay interest at the rate of twelve per centum per annum, to be assessed as damages upon the amount due, and which interest shall be included in the judgment obtained against him: *Provided*, that if it satisfactorily appears to the court that on said first day of March, or on the day of presentation for payment thereafter, that said collector had not as yet, collected funds sufficient to pay said warrant, said interest shall not be allowed upon said warrant.

NOT NEGOTIABLE—The auditor's warrants mentioned here are not negotiable, and are only payable to the county superintendent, and must be paid in full without deduction for commission. The auditor will settle with the collector for the commission due.

ADDITION TO FUND—Sec. 6. All bonds, notes, mortgages, moneys and effects which have heretofore accrued or may hereafter accrue from the sale of the sixteenth section of the common school lands of any township or county, or from the sale of any real estate or other property taken on any judgment or for any debt due to the principal of any township or county fund, and all other funds of every description which

have been or may hereafter be carried to and made part of the principal of any township or county fund, by any law which has heretofore been, is now or may hereafter be enacted, are hereby declared to be and shall forever constitute the principal of the township or county fund respectively; and no part thereof shall ever be distributed or expended for any purpose whatever, but the same shall be loaned out and held to use, rent or profit, as provided by law. But the interest, rents, issues and profits arising and accruing from the principal of said township or county fund, shall be distributed in the manner and at the times as provided by this act; nor shall any part of such interest, rents, issues and profits be carried to the principal of the respective funds, except it appear on the first Monday in October in any year, that there is rent, interest or other funds on hand which are not required for distribution, such amount not required, as aforesaid, may, if the board of trustees see proper, forever be considered as principal in the funds to which it belongs and loaned as such.

INTERPRETATION—It seems that the law intends the income, interest and rents from the township fund shall be distributed to the schools. There is no place in the law that indicates or speaks of building up and enlarging the principal of the fund, so long as people are required to levy and collect taxes for the purpose of maintaining schools in a township. We see no authority for adding any part of the income to the principal as long as people collect special school taxes to support schools.

FUNDS PAID OUT—Sec. 7. School funds collected from special taxes, levied by order of school directors, or from the sale of property belonging to any district, shall be paid out only on the order of the proper board of directors; and all other moneys or school funds liable to distribution, paid into the township treasury, or coming into the hands of the township treasurer, shall, after said funds have been apportioned by the township trustees, as required in section 26 of article III of this act, be paid out only on the order of the proper board of directors, signed by the president and clerk of said board, or by a majority of said board. For all payments made, receipts shall be taken and filed by said board of directors.

FORM OF ORDER—Sec. 8. In all such orders shall be stated the purpose for which or on what account drawn. Said orders may be in the following form, viz:

The treasurer of township No....., range No....., in..... county, will pay to..... or order,dollars and.....cents (on his contract for repairing school house, or whatever the case may be).

By order of the board of directors of school district No, in said township.

A. B., *President*.

C. D., *Clerk*.

Which order, together with the receipt of the person to whom paid, shall be filed in the office of the township treasurer: *Provided*, that when an order is paid in full, such order, if properly endorsed by the person in whose favor it was drawn, and his assigns, if any, shall be a sufficient receipt for the purposes of this section.

UNION DISTRICT—Sec. 9. When a district is composed of parts of two or more townships, the township treasurer or treasurers who do not receive the tax money of said district, shall, when they hold any funds belonging to said district, notify the directors thereof of the amount of such funds, and the directors shall thereupon give the treasurer who receives the tax money of said district an order for such funds, and upon receipt thereof he shall hold them, to be paid out as aforesaid.

SPECIAL DISTRICTS—Sec. 10. In all cases where school funds are held by any person or persons in an official capacity, by virtue of any special charter defining the manner of loaning the same, such money may be loaned upon the same terms and conditions as are provided by this act, or may hereafter be provided, by the school laws of this state, for loaning the school funds of counties or townships.

NO RIGHT—A school board has no authority for making any acceptances of orders drafts, etc., so as to bind the district and create a right of action against it. 72 Ill., 508.

CANNOT DELEGATE POWER—A member of a school board may not delegate to any other member or person the right to sign his name to any school order. An order void in its inception cannot be made valid by any act of any succeeding board or by the promise of any official to pay it. 47 Ill., 525.

ARTICLE XIII.

SCHOOL LANDS.

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| <p>§ 1. Section sixteen.</p> <p>§ 2. Business relating to school lands; where transacted.</p> <p>3. Renting and sale of school lands.</p> <p>§ 4. Right of way and depot grounds for use of railroads.</p> <p>§ 5. Trespass on school land; penalty.</p> <p>§ 6. Trespasser liable to indictment.</p> <p>§ 7. Penalties and fines to be paid to township treasurer.</p> <p>§ 8. Petition for sale.</p> <p>§ 9. Fractional township.</p> <p>§ 10. Divided into lots by trustees.</p> <p>§ 11. Making of a plat.</p> <p>§ 12. Size of lots, roads and streets.</p> <p>§ 13. Valuation plats and certificate given to county superintendent.</p> <p>§ 14. Advertising the sale; form of notice.</p> <p>§ 15. Place of sale.</p> | <p>§ 16. Terms of sale; amount of bid borrowed.</p> <p>§ 17. Manner of sale</p> <p>§ 18. Payment; land resold; suit instituted</p> <p>§ 19. Unsold land afterwards subject to sale.</p> <p>§ 20. Re-valuation of unsold land; no petition required.</p> <p>§ 21. Certificate of purchase.</p> <p>§ 22. Statement of sales by county superintendent.</p> <p>§ 23. Transcript sent to auditor.</p> <p>§ 24. Patents; certificates of sale; evidence of sale.</p> <p>§ 25. Duplicates of certificates of purchase</p> <p>§ 26. Real estate taken for debt, sold by county superintendent.</p> <p>§ 27. Trustees may dedicate land for streets.</p> |
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SCHOOL LANDS—Sec. 1. Section number sixteen (16) in every township granted to the state by the United States for the use of schools, and such sections and parts of section as have been or may be granted, as aforesaid, in lieu of all or part of section number sixteen (16), and also the lands which have been or may be selected and granted as aforesaid, for the use of schools, to the inhabitants of fractional townships in which there is no section number sixteen (16), or where such section shall not contain the proper proportion for the use of schools in such fractional township, shall be held as common school lands; and the provisions of this act referring to common school lands shall be deemed to apply to the lands aforesaid.

BUSINESS—Sec. 2. All the business of such townships, so far as relates to common school lands, shall be transacted in that county which contains all or a greater portion of said lands.

LEASE—Sec. 3. It shall be lawful for the trustees of schools in townships in which section number sixteen (16), or any other lands granted in lieu thereof, remain unsold or which has title to any other school lands whatsoever, to rent or lease the same for an annual rent to be paid in money to the treasurer, by a written contract made by the president and clerk, under direction of the board, with lessee or lessees, which contract shall be filed with the records of the board, and a copy of the same transmitted to the county superintendent. In case of any default in the payment of the rent, the said board of trustees shall at once proceed to collect the same by distress, or otherwise, as

may be provided by law for the collection of rents by landlords. No lease taken under the provisions of this act, shall be for a longer period than five years, except where such lands are leased for the purpose of having permanent improvements made thereon, as may be the case in cities and villages: *Provided*, that the provisions of this section shall not apply to cities having a population of over one hundred thousand (100,000) inhabitants.

SELL TO RAILROADS—Sec. 4. The trustees of schools of any township concerned are hereby authorized and empowered in their corporate capacity, to sell and convey to any railroad company which may construct a railroad across any of the public school lands of such township, the right of way and necessary depot grounds. All moneys received by such trustees for any right of way or depot grounds so sold, shall be turned over by such trustees to the township treasurer of the township for the benefit of the township school fund.

TRESPASS—Sec. 5. If any person shall, without being duly authorized, cut, fell, box, bore, destroy or carry away any tree, sapling or log standing or being upon any school lands, such person shall forfeit and pay for every tree, sapling or log so felled, boxed, bored, destroyed or carried away, the sum of eight dollars (\$8), which penalty shall be recovered with costs of suit, by an action of debt or assumpsit, before any justice of the peace having jurisdiction of the amount claimed, or in the county or circuit court, either in the corporate name of the board of trustees of the township to which the land belongs, or by *qui tam* action in the name of any person who will first sue for the same, one-half of the judgment for the use of the person suing and the other half for the use of the township aforesaid. When two or more persons shall be concerned in the same trespass, they shall be jointly and severally liable for the penalty herein imposed.

INDICTMENT—Sec. 6. Every trespasser upon common school lands shall be liable to indictment, and upon conviction shall be fined in three times the amount of the injury occasioned by said trespass, and shall stand committed as in other cases of misdemeanor.

PENALTIES—Sec. 7. All penalties and fines collected under the provisions of the foregoing sections shall be paid to the township treasurer, and be added to the principal of the township fund.

SALE—Sec. 8. When the inhabitants of any township or fractional township shall desire the sale of the common school lands of the township or fractional township, they shall present a petition to the county superintendent of the county in which the school lands of the township, or the greater part thereof, lie, for the sale thereof, which petition shall be signed by at least two-thirds of the legal voters of the township or fractional township. The signing of the petition must be done in the presence of two adult citizens of the township, after the true meaning and purpose thereof have been explained, and when signed an affidavit must be affixed thereto by the two citizens witnessing the

signing, in the manner aforesaid, which affidavit shall state the number of inhabitants in the township or fractional township of and over twenty-one years of age, and said petition, so proved, shall be delivered to the county superintendent for his action thereon: *Provided*, that in townships having a population of more than ten thousand inhabitants such petition shall be signed by at least one-tenth of the legal voters of the township or fractional township, and not two-thirds thereof, and that such petition shall be delivered to the county superintendent at least fifteen days preceding the regular election of trustees, or the date of a special election which may be called for such purpose, and thereupon it shall be the duty of said county superintendent to notify the voters of such township that an election for or against the proposition to sell common school lands of the township or a portion thereof will be held at the next regular election of trustees, or at a special election called for that purpose, by posting notices of such election in at least ten of the most public places throughout such township for at least ten days before the date of such regular or special election, which notice may be in the following form, to-wit:

"Election for sale of common school lands. Notice is hereby given that on....., the day of, A. D.,, an election will be held at for the purpose of voting 'for' or 'against' the proposition to sell common school lands of the township, to-wit: (Here insert description of said lands). The polls of said election will be open at..... and close at o'clock of said day.

A. B., *County Superintendent*.

The ballots of such election shall be received and canvassed as in other elections provided for in this act, and returns of the result thereof made to the county superintendent, and if it shall appear that two-thirds of the vote upon such proposition shall have been cast in favor of the sale of said lands, then the said county superintendent shall act thereon: *And, provided*, no whole section shall be sold in any township containing less than two hundred inhabitants; and common school lands in fractional townships may be sold when the number of inhabitants and the number of acres are in the ratio of two hundred to six hundred and forty, but not before.

As amended May 10, 1901. In force July 1, 1901.

FRACTIONAL TOWNSHIPS—Sec. 9. Any fractional township not having the requisite number of inhabitants to petition for the sale of the school lands therein, as provided in section 8 of this article of this act, which has not heretofore been united with any other township for school purposes, which does not contain a sufficient number of inhabitants to maintain a free school, is hereby attached to the adjacent congressional township having the longest territorial line bordering on such fractional township, for school purposes, and all the provisions of this act shall apply to such united townships, the same as though they were one and the same township.

DIVISION OF LAND—Sec. 10. When the petition and affidavits are delivered to the county superintendent, as aforesaid, he shall notify the trustees of said township thereof, and said trustees shall immediately proceed to divide the land into tracts or lots, of such form and quantity as will produce the largest amount of money.

PLAT—Sec. 11. After making the division required by the foregoing section, said trustees shall cause a correct plat of the same to be made, representing all divisions, with each lot numbered and defined, so that its boundaries may be forever ascertained.

LOTS AND STREETS—Sec. 12. In subdividing said common school lands for sale no lot shall contain more than 80 acres, and the division may be made into town or village lots, with roads, streets or alleys between them and through the same; and all such divisions, with all similar divisions hereafter made, are hereby declared legal, and all such roads, streets and alleys, public highways.

VALUATION—Sec. 13. After such division into lots has been made and platted, the trustees of schools shall fix a value on each lot, having regard to the terms of sale, certify to the correctness of the plat, stating the value of each lot per acre, or per lot if less than one acre, and referring to and describing the lot in the certificate, so as fully and clearly to distinguish and identify each lot; which plats and certificate shall be delivered to the county superintendent, and shall govern him in advertising and selling such lands.

ADVERTISEMENT—Sec. 14. Upon the reception by the county superintendent of the plat and certificate of valuation from the trustees, he shall proceed to advertise the said land for sale in lots, as divided and laid off by said trustees, by posting notices thereof in at least six (6) public places in the county, forty days before the day of sale, describing the land and stating the time, place and terms of sale; and if any newspaper is published in said county, said advertisement shall be printed therein for four weeks before the day of sale; if no newspaper is published in said county, then such land may be sold under the notice aforesaid, which notice may be in the following form, viz:

SALE OF SCHOOL LAND.

Public notice is hereby given that on the.....day of A. D.,, between the hours of 10 o'clock a. m. and 6 o'clock p. m., the undersigned superintendent of schools of.....county, will sell at public vendue to the highest bidder, at the.....door of the court house in.....(or on the premises) the following described real estate, the same being a part of the school lands of township No....., range No....., as divided and platted by the trustees of schools of said township, to-wit: (Here insert full and complete description of said premises). Said lands will be sold for cash in hand, with the privilege to any purchaser of borrowing from the undersigned the whole or any part of the amount of his bid, for not less than one nor more than five years, upon his paying interest and giving

security, as required in case of a loan obtained from the township school fund.

Dated this.....day of....., A. D.,

.....

County Superintendent,

.....*County.*

PLACE OF SALE—Sec. 15. The place of selling common school lands shall be at the court house of the county in which the lands are situated; or the trustees of schools may direct the sale to be made on the premises.

TERMS—Sec. 16: The terms of selling common school lands shall be to the highest bidder for cash, with the privilege to each purchaser of borrowing from the county superintendent the amount or any part of the amount of his bid, for any period of not less than one year nor more than five years, upon his paying interest and giving security, as in case of money loaned by a township treasurer as provided in this act.

SALE—Sec. 17. Upon the day appointed for such sale the county superintendent shall proceed to make sales as follows, viz: He shall begin at the lowest numbered lot and proceed regularly to the highest numbered, till all are sold or offered. No lot shall be sold for less than its valuation by the trustees. Said sale shall be made between the hours of 10 o'clock a. m. and 6 o'clock p. m., and may continue from day to day. The lots shall be cried separately, and each lot cried long enough to enable any person present to bid who desires to bid.

DELINQUENT PURCHASER—Sec. 18. Upon closing the sales each day, the purchasers shall each pay, or secure the payment of the purchase money, according to the terms of sale; or in case of his failure to do so by 10 o'clock the succeeding day, the lot purchased shall again be offered at public sale on the same terms as before, and if the valuation or more shall be bid, shall be stricken off; but if the valuation be not bid, the lot shall be put down as not sold. If the sale is or is not made, the former purchaser shall be required to pay the difference between his bid and the valuation of the lot, and in case of his failing to make such payment, the county superintendent may forthwith institute an action of debt or assumpsit in his name, as superintendent, for the use of the inhabitants of the township where the land lies, for the required sum; and upon making proof, shall be entitled to judgment with costs of suit; which, when collected, shall be added to the principal of the township fund. If the sum claimed does not exceed two hundred dollars, the suit may be commenced before a justice of the peace; if the sum demanded exceeds two hundred dollars, then suit may be brought in the circuit court of any county wherein the party may be found.

PRIVATE SALE—Sec. 19. All lands not sold at public sale, as herein provided for, shall be subject to sale at any time thereafter, at

the valuation; and the county superintendents are authorized and required, when in their power, to sell all such lands at private sale, upon the terms at which they were offered at public sale.

REVALUATION—Sec. 20. In all cases where common school lands have been heretofore valued, and have remained unsold for two years, after having been offered for sale, or shall hereafter remain unsold for that length of time, after being valued and offered for sale, in conformity to this act, the trustees of schools where such lands are situated may vacate the valuation thereof by an order to be entered in book A of the county superintendent, and cause a new valuation to be made, if, in their opinion, the interests of the township will be promoted thereby. They shall make said second valuation in the same manner as the first was made, and shall deliver to the county superintendent a plat of such second valuation, with the order of vacation, to be entered as aforesaid; whereupon, said county superintendent shall proceed to sell such lands in all respects, as if no former valuation had been made: *Provided*, that the second valuation may be made by the trustees of schools, without petition, as provided in this act for the first valuation.

CERTIFICATE OF PURCHASE—Sec. 21. Upon the completion of every sale by the purchaser, the county superintendent shall enter the same in book B, and shall deliver to the purchaser a certificate of purchase, stating therein the name and residence of the purchaser, describing the land and the price paid therefor, which certificate shall be evidence of the facts therein stated.

COUNTY BOARD—Sec. 22. At the first regular term of the county board in each year, the county superintendent shall present to the county board of his county a statement showing the sales of school lands made subsequent to the first regular term of the previous year, which shall be a true copy of the sale book (book B).

TO AUDITOR—Sec. 23. The county superintendent shall, also, at the time aforesaid, transmit to the auditor of public accounts, a full and exact transcript from book B of all the sales made subsequent to each report. The statement required to be presented to the county board shall be preserved and copied by the clerk of said board into a well-bound book kept for that purpose; and the list transmitted to the auditor shall be filed, copied and preserved in like manner.

PATENTS—Sec. 24. Every purchaser of common school lands shall be entitled to a patent from the state, conveying and assuring the title. Patents shall be made out by the auditor from returns made to him by the county superintendent. They shall contain a description of the land granted, and shall be in the name of and signed by the governor, countersigned by the auditor, with the great seal of the state affixed thereto by the secretary of state, and shall operate to vest in the purchaser a perfect title in fee simple. When patents are executed as herein required, the auditor shall note on the list of sales the date of each

patent, in such manner as to perpetuate the evidence of its date and delivery, and thereupon transmit the same to the county superintendent of the proper county, to be by him delivered to the patentee, his heirs or assigns, upon the return of the original certificate of purchase, which certificate, when returned shall be filed and preserved by the county superintendent; and all such patents, heretofore or hereafter so issued by the state for school lands, or duly certified copies thereof from any record legally made, shall, after the lapse of ten years from the date of such patent, and such sale having been acquiesced in for ten years by the inhabitants of the township in which the land so conveyed may be situated, be conclusive evidence as to the legality of the sale, and that the title to such land was, at the date of the patent, legally vested in the patentee.

DUPLICATE—Sec. 25. Purchasers of common school lands, and their heirs and assigns, may obtain duplicate copies of their certificates of purchase and patents, upon filing affidavit with the county superintendent in respect to certificates, and with the auditor in respect to patents, proving the loss or destruction of the originals; and such copies shall have the force and effect of the originals.

SALE ON DEBT—Sec. 26. When any real estate shall have been taken for any debts due to any school fund, the title to which real estate has become vested in any county superintendent for the use of the inhabitants of one or more townships or of the county, the county superintendent may lease or sell such real estate for the benefit of such township or townships, or of the county, as provided in section 37 of Article III of this act, regulating the leasing and sales of lands by school trustees: *Provided*, that in case the real estate be held for the benefit of any township or townships, it shall not be sold except upon the written request of the school trustees of said township or townships. The said county superintendent is hereby authorized to execute conveyances of such real estate to the purchasers when so sold.

HIGHWAY AND RAILROAD—Sec. 27. The trustees of schools in any township are hereby authorized and empowered, in their corporate capacity, to lay out and dedicate to the public use, for street and highway purposes, so much of the common school lands, which is unimproved or unoccupied with buildings, as may be necessary to open or extend any street or highway which may be ordered opened or extended by the municipal authorities, which are by law empowered to open or extend streets or highways in the territory where said school lands are located: *Provided*, that said trustees of schools shall be of the opinion that the benefits to accrue from the opening or extending of said street or highway, to the remainder of said common school lands, will compensate for the strip so dedicated: *And, provided further*, that it shall not be lawful for any street or other railroad to lay down railroad tracts on any strip of the common school lands so dedicated, or use same or any part of the common school lands for

railroad or street railroad purposes, except upon the purchase or lease of the same from the proper authorities, or upon the payment to the school fund of said township of the value of such use or land taken, the same as if no street or highway had been laid out thereon, to be determined by proceedings under an act entitled "An act to provide for the exercise of the right of eminent domain," approved April 10, 1872, and all amendments thereto: *And, provided further*, that this section shall not in any way affect existing leases or contracts for the lease or purchase of common school lands.

ACT OF CONGRESS—Congress, on April 15, 1818, passed an act, enabling the people of the Illinois Territory to form a constitution and a state government. Among the several propositions contained in this act was this: "The section numbered sixteen in every township, and when such section has been sold or otherwise disposed of, other lands equivalent thereto, and contiguous as may be, shall be granted to the state for the use of the inhabitants of such township for the use of schools." In August of the same year the constitutional convention met and accepted the proposition with the conditions which it contained. There was more or less legislation by the state concerning these lands from 1829 to 1855, since which time the law has not been very materially changed; and at the present time but little of the land remains unsold; in fact the greater part of the land was sold prior to 1855.

Section twenty-five of this article provides for a certified copy of a patent in case of loss of the original. 48 Ill., 203.

ARTICLE XIV.

FINES AND FORFEITURES.

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| § 1. Paid to county superintendent.
§ 2. Duties of state's attorneys.
§ 3. Duties of justices of the peace.
§ 4. Report of fines; affidavit; penalty for failure to report. | § 5. Penalty for failure to pay over fines collected.
§ 6. Power of the county court to examine records of delinquent officers; penalty for failure to furnish papers, etc. |
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FINES—Sec. 1. All fines, penalties and forfeitures imposed or incurred in any of the courts of record, or before any justice of the peace of the state, except fines, forfeitures and penalties incurred or imposed in incorporated towns or cities for the violation of the by-laws or ordinances thereof, shall, when collected, be paid to the county superintendent of schools of the county wherein such fines, penalties or forfeitures have been imposed or incurred, and the said county superintendent of schools shall give his receipt therefor to the person from whom such fine, forfeiture or penalty was received. The said county superintendent shall annually distribute such fines, penalties or forfeitures in the same manner as the common school funds of the state are distributed.

STATE'S ATTORNEYS—Sec. 2. It shall be the duty of the state's attorneys of the several counties to enforce the collection of all fines, forfeitures and penalties imposed or incurred in the courts of record of their respective counties, and to pay the same over to the county superintendent of the county wherein the same have been imposed or incurred, retaining therefrom the fees and commissions allowed them by law.

JUSTICES—Sec. 3. It shall be the duty of the justices of the peace to enforce the collection of all fines imposed by them by any lawful means; and when collected the same shall be paid by the justice collecting the same to the county superintendent of the county in which the same was imposed.

REPORTS—Sec. 4. Clerks of courts of record, state's attorneys and all justices of the peace shall report, under oath, to the county court of their respective counties, by the first of March annually, the amount of such fines, penalties and forfeitures imposed or incurred in their respective courts, and the amount of such fines, forfeitures and penalties collected by them, giving each article separately, and if such officer has collected no such fines, penalties or forfeitures, he shall make affidavit to such fact, and file the same with the county superintendent. The judges of the county court shall inspect the said reports, and may hear evidence thereon, and, if found correct and truthful, shall enter an order approving such report, and that any moneys in the hands of such officers so reporting shall be paid over to the superintendent of schools. If the court shall not approve of such report, he may order a new one to be made, and upon failure to comply with the order of the court, or to make a satisfactory report, the court may state an ac-

count and enter an order to pay over as above provided. The court, for all purposes for carrying out the provisions of this section, shall have power to examine books and papers as provided hereinafter in section 6 of this article, and shall have power to issue subpoenas for both books and persons: *Provided*, that no report shall be approved until the court shall have given the superintendent five (5) days' notice of the same, and he shall be allowed to inspect said report, and he shall be heard by the court upon the same if he desire; and the officers charged with the collection thereof (the said clerks, state's attorneys and justices of the peace), for a failure to make such a report, shall be liable to a fine of twenty-five dollars (\$25) for each offense, said fine to be recovered in a civil action, before any court, at the suit of the county superintendent of schools of the proper county.

PENALTIES—Sec. 5. For a failure to pay any fine, forfeiture or penalty, on demand, to the person who is by law authorized to receive the same, the officer or person having collected the same, or having the same in his possession or control, shall forfeit and pay double the amount of such fine, penalty or forfeiture as aforesaid, to be recovered before any court having jurisdiction thereof, in a *quid tam* action, one-half to be paid the informer, and one-half to the school fund of the proper county.

JUDGE EXAMINE—Sec. 6. In case that any clerk of a court of record, state's attorney or justice of the peace shall fail to make the report provided for in section 4 of this article, the county court shall have power, and it is hereby made the duty of the judge of said court to examine all records pertaining to the office of such delinquent officer and enforce the payment of whatever sum may be found due the school fund from such delinquent officer. For the purpose of making such examination, the said county court shall have the right to call for any papers, docket, fee-book or other record belonging to the office of such delinquent officer; and in case such delinquent officer fails or refuses to furnish such paper, docket, fee-book or other record for the inspection or use of such county, he shall forfeit and pay to the school fund the sum of one hundred dollars (\$100), to be recovered in an action of debt or assumpsit, before any court of this state having jurisdiction of the actions of debt and assumpsit, and such penalty, when collected, shall be paid into the school fund of the proper county.

CLERKS NOT COLLECTORS—Clerks of the courts of record are not made by law the collectors of fines and penalties, and if such are paid to them they should turn the same over to the state's attorney, who is under the law the collector of all fines imposed in courts of record. The law makes it the duty of justices of the peace to collect all fines imposed by them.

FINES REPORTED—It is the duty of all clerks of courts of record, state's attorney and justices of the peace to report to the county court on or before the first Monday of March each year the amount of fines, penalties and forfeitures imposed or incurred in their respective courts. For a failure to make such reports there are two penalties: One for a

failure to report the fine or fines which have been imposed or collected; and the other for a failure to pay over such fines to the proper officer. The penalty for the first is twenty-five dollars, and in the second case double the amount illegally withheld or retained.

The fact that the officer imposed no fines, etc., and made no collections does not excuse him from making the report.

ARTICLE XV.

LIABILITIES OF SCHOOL OFFICERS.

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| <p>§ 1. Of trustees for failure to take action regarding the insufficiency of township securities.</p> <p>§ 2. Of judges of election for failure to deliver poll-book and certificates.</p> <p>§ 3. Of boards of directors for failure to deliver schedules.</p> <p>§ 4. Of township treasurer for failure to perform his duties.</p> <p>§ 5. Of the bondsmen or legal representatives of township treasurer to turn over bonds, etc., to successor.</p> <p>§ 6. Liable to indictment and imprisonment for conversion of funds.</p> <p>§ 7. Trustees liable for securities of township treasurer; exception.</p> | <p>§ 8. Real estate of school officers holden.</p> <p>§ 9. Failure of trustees to make returns of children.</p> <p>§ 10. Failure of school officers to furnish statistics.</p> <p>§ 11. School officers responsible for loss of funds.</p> <p>§ 12. Forbidden to pervert funds to sectarian purposes.</p> <p>§ 13. Interest in sale of school books, etc., forbidden.</p> <p>§ 14. Penalty for excluding colored children from school.</p> |
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TRUSTEES—Sec. 1. Whenever the county superintendent of schools of any county shall notify the board of trustees of any township, in writing, that the notes, bonds, mortgages, or other evidences of indebtedness which have been taken officially by the township treasurer, are not in proper form, or that the securities which the said township treasurer has taken are insufficient, it shall be the duty of the said board of trustees at once to take such action as may be necessary to save and protect the property or funds of the districts and the township; and for a failure or refusal to take such action within twenty (20) days after such notice, the members of the board, each in his individual capacity, shall be liable to a fine of not less than twenty-five (\$25) nor more than one hundred dollars (\$100), to be recovered before any justice of the peace, on information, in the name of the people of the state of Illinois (provided such insufficiency is proven), and, when collected, the said fine shall be paid to the county superintendent of the proper county, for the use of schools. And the payment of this fine shall not relieve the board of trustees from any civil liability they may have incurred from such neglect of duty.

ELECTION JUDGES—Sec. 2. If the judges of any school election called for any legal purpose shall fail or neglect to deliver a copy of the poll-book of any such election, with a certificate thereon showing the result of such election, to the officer provided by law to whom such return shall be made, within ten days after such election shall have been held, the said judges of election shall be severally liable to a penalty of not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100), to be recovered in the name of the people of the state of Illinois, by an action of debt before any justice of the peace of the county; which penalty, when collected, shall be paid into the school fund of the township in which such election was held.

DIRECTORS—Sec. 3. It shall be the duty of the board of directors of every school district in this state, to deliver to the township treasurer all teachers' schedules made and certified as required by law, and covering all time taught during the school year ending June 30th, on or before the 7th day of July, annually; and the directors shall be personally liable to the district for any and all loss sustained by it through their failure to examine and deliver to the said township treasurer all such schedules within the said time.

NO RELEASE—Sec. 4. For any failure or refusal to perform all the duties required of the township treasurer by law, he shall be liable to the board of trustees, upon his official bond, for all damages sustained by reason of such failure or refusal, to be recovered by action of debt by said board, in their corporate name, for the use of the proper township before any court having jurisdiction of the amount of damages claimed; but if the said treasurer, in any such failure or refusal, acted under and in conformity to a requisition or order of said board, or a majority of them, entered upon their journal and subscribed by their president and clerk, then, in that case, the members of said board aforesaid, or those of them voting for such requisition or order aforesaid, and not the said township treasurer, shall be liable, jointly and severally, to the inhabitants of the township for all such damages, to be recovered by an action of assumpsit in a suit brought in the official name of the county superintendent of schools, for the use of the proper township. *Provided*, said treasurer shall be liable for any loss not collected by reason of the insolvency of said trustees.

RESIGNATION—Rec. 5. When a township treasurer shall resign or be removed, and at the expiration of his term of office, he shall pay over to his successor in office, when appointed, all money on hand, and deliver over all books, notes, bonds, mortgages and all other securities for money, and all papers and documents of every description in which the corporation has any interest whatever; and in case of the death of the township treasurer, his securities and legal representatives shall be bound to comply with the requisitions of this section so far as the said securities and legal representatives may have the power so to do. And for any failure to comply with the requisitions of this section, the persons neglecting or refusing shall be liable to a penalty of not less than ten (\$10) nor more than one hundred dollars (\$100,) at the discretion of the court before which judgment may be obtained, to be recovered in an action of debt before any justice of the peace, for the benefit of the school fund of such township: *Provided*, that the obtaining or payment of such judgment shall in no wise discharge or diminish the obligation of the persons signing the official bond of such township treasurer.

CONVERSION OF FUNDS—Sec. 6. If any county superintendent, trustee of schools, township treasurer, director, or any other person entrusted with the care, control, management or disposition of any

school, college, seminary or township fund for the use of any county, township, district or school, shall convert such funds, or any part thereof, to his own use, he shall be liable to indictment; and, upon conviction thereof, shall be fined in any sum not less than double the amount of money converted to his own use, and imprisoned in the county jail not less than one nor more than twelve months, at the discretion of the court.

TRUSTEES LIABLE—Sec. 7. Trustees of schools shall be liable, jointly and severally, for the sufficiency of securities taken from township treasurers; and in case of judgment against any treasurer and his securities for or on account of any default of such treasurer on which the money shall not be made for want of sufficient property whereon to levy execution, action on the case may be maintained against said trustees, jointly and severally, and the amount not collected on said judgment shall be recovered with costs of suit from such trustees: *Provided*, that if said trustees can show, satisfactorily, that the security taken from the treasurer, as aforesaid, was, at the time of said taking, good and sufficient, they shall not be liable, as aforesaid.

LIEN ON LAND—Sec. 8. The real estate of county superintendents, of township treasurers, and all other school officers, and of the securities of each of them shall be bound for the satisfaction and payment of all claims and demands against said superintendents and treasurers, and other school officers as such from the date of issuing process against them, in actions or suits brought to recover such claims or demands until satisfaction thereof can be obtained; and no sale or alienation of real estate, by any superintendent, treasurer or other officer or security aforesaid, shall defeat the lien created by this section; but all and singular such real estate held, owned or claimed, as aforesaid, shall be liable to be sold in satisfaction of any judgment which may be obtained in such actions or suits.

FAILURE TO MAKE RETURNS—Sec. 9. Trustees of schools, or either of them, failing or refusing to make returns of children in their township according to the provisions of this act, or if either of them shall knowingly make a false return, the party so offending shall be liable to a penalty of not less than ten dollars (\$10) nor more than one hundred dollars (\$100), to be recovered by an action of assumpsit, before any justice of the peace of the county; which penalty, when collected, shall be added to the township school fund of the township in which said trustees reside.

FAILURE IN DUTIES—Sec. 10. If any county superintendent, director or trustee, or either of them, or other officer whose duty it is, shall negligently or wilfully fail or refuse to make, furnish or communicate the statistics and information, or shall fail to discharge the duties enjoined upon them or either of them, at the time and in the manner required by the provisions of this act, such delinquent or party offending shall be liable to a fine of not less than twenty-five dollars

(\$25), to be recovered before any justice of the peace at the suit of any person, on information in the name of the people of the State of Illinois, and, when collected, the said fine shall be paid to the county superintendent of the proper county for the use of the school fund.

LOSS OF FUNDS—Sec. 11. County superintendents, trustees of schools, directors and township treasurers, or either of them, or any other officer having charge of school funds or property, shall be peculiarly responsible for all losses sustained by any county, township or school fund, by reason of any failure on his or their part to perform the duties required of him or them by the provisions of this act; or by any rule or regulation authorized to be made by the provisions of this act; and each and every one of the officers aforesaid shall be liable for any such loss sustained as aforesaid, and the amount of such loss may be recovered in a civil action brought in any court having jurisdiction thereof, at the suit of the State of Illinois, for the use of the county, township or fund injured; the amount of the judgment obtained in such suit shall, when collected, be paid to the proper officer for the benefit of the said county, township or fund injured.

SECTARIAN PURPOSES FORBIDDEN—Sec. 12. No county, city, town, township, school district or other public corporation shall ever make any appropriation, or pay from any school fund whatever, anything in aid of any church or sectarian purpose, or help support or sustain any school, academy, seminary, college, university or other literary or scientific institution controlled by any church or sectarian denomination whatever; nor shall any grant or donation of money, or other personal property, ever be made by any such corporation to any church or for any sectarian purpose; and any officer or other person having under his charge or direction school funds or property, who shall pervert the same in the manner forbidden in this section, shall be liable to indictment, and upon conviction thereof, shall be fined in a sum not less than double the value of the property so perverted, and imprisoned in the county jail not less than one (1) nor more than twelve (12) months, at the discretion of the court.

NO INTEREST IN BOOKS—Sec. 13. No teacher, state, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used, or to be used, in any school in this state with which such officer or teacher may be connected; and for offending against the provisions of this section such teacher, state, county, township or district school officer shall be liable to indictment, and upon conviction shall be fined in a sum not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500), and may be imprisoned in the county jail not less than one (1) month nor more than twelve (12) months, at the discretion of the court.

COLORLED PUPILS' RIGHTS—Sec. 14. Any school officer or officers, or any other person, who shall exclude or aid in the exclusion

from the public schools, of any child who is entitled to the benefits of such school, on account of such child's color, shall be fined, upon conviction, in any sum not less than five dollars (\$5) nor more than one hundred dollars (\$100) each, for every such offense.

LIABILITIES OF SCHOOL OFFICERS AND SECURITY—The liability of school officers has been quite fully discussed under different sections, and the remarks and citations with the sections of this article make the points quite clear without any lengthy discussions. It may be well to say that the law makes it impossible for any school officer or his securities to evade any liability to the school fund by disposing of their real estate after suit has been begun against them. The lien attaches, if judgment is taken, from the date on which the process was issued. 57 Ill., 480.

FUNDS SQUANDERED—If any school officer squanders or loses school funds, or makes any misuse of such funds, section eleven in this article provides a full and complete remedy. 88 Ill., 422.

MUST NOT ENGAGE IN—No school officer or teacher is allowed to sell any book, etc., to be used in any of the public schools with which such officer or teacher may be connected. A person keeping a bookstore, or one who is engaged in selling books used in the school, cannot be a member of the school board in his district without subjecting himself to a fine; neither can he teach in any school of his county without laying himself liable under the law.

DEFINED—The "information" mentioned in section ten of this article is not required to be in writing, and not necessarily in the name of the people of the State of Illinois. A complaint or any form of process which brings the party into court is sufficient. 72 Ill., 507.

PAY COST—If suits are brought against any school officers, individually, such officers must defend the suits at their own expense, and all judgments for costs must be paid by them. There is no law that will allow them to appropriate any of the funds of the public schools to pay such charges and expenses.

ARTICLE XVI.

MISCELLANEOUS.

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| <p>§ 1. Cost of suits not to be charged to school fund.</p> <p>§ 2. Eligibility of women to school offices.</p> <p>§ 3. Bonds of women holding school offices.</p> <p>§ 4. Colored children may not be excluded from school.</p> <p>§ 5. Penalty for preventing children from attending school.</p> <p>§ 6. Payment of funds to township treasurer.</p> <p>§ 7. Reports and rate of taxation under special charters.</p> | <p>§ 8. Educational institutions to report to state superintendent.</p> <p>§ 9. Judgments and executions against boards of trustees and directors.</p> <p>§ 10. No compensation allowed to trustees, directors, etc.; exemption from road labor, etc.</p> <p>§ 11. School officers to hold until their successors are qualified.</p> <p>§ 12. Former acts repealed.</p> <p>§ 13. Emergency clause.</p> |
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COST—Sec. 1. No justice of the peace, constable, clerk of any court, sheriff or coroner shall charge any costs in any suit where any school officer, school corporation or any agent of any school fund, suing for the recovery of the same, or any interest due thereon, is plaintiff and shall be unsuccessful in such suit; nor where the costs cannot be recovered from the defendant by reason of the insolvency of such defendant.

WOMEN ELIGIBLE—Sec. 2. Any woman, married or single, of the age of twenty-one years and upwards, and possessing the qualifications prescribed for the office, shall be eligible to any office under the general or special school laws of this state.

GIVE BOND—Sec. 3. Any woman elected or appointed to any office under the provisions of this act, before she enters upon the discharge of the duties of the office, shall qualify and give the bond required by law (if a bond is required), and such bond shall be binding upon her and her securities.

MUST NOT EXCLUDE PUPILS—Sec. 4. All boards of school directors, boards of education or school officers, whose duty it now is, or may be hereafter to provide, in their respective jurisdictions, schools for the education of all children between the ages of six and twenty-one years, are prohibited from the excluding, directly or indirectly, any such child from such school on account of the color of such child.

MENACE—Sec. 5. Any person who shall, by threats, menace or intimidation, prevent any child entitled to attend a public school in this state from attending such school shall, upon conviction, be fined in any sum not exceeding twenty-five dollars (\$25.00.)

REPORT MONEY—Sec. 6. It shall be the duty of the county treasurers, county superintendents of schools, township collectors, and all other persons paying money into the hands of township school treasurers for school purposes, on or before the 30th day of September of each year, to notify in writing the presidents of boards of school trustees and the clerks of the boards of school directors of the amount paid into the township treasurer's hands and the date of payment.

SPECIAL LAW—Sec. 7. This act shall not be so construed as to repeal or change, in any respect, any special acts in relation to schools in cities having less than 100,000 inhabitants, or incorporated towns, townships or districts (except that in every such city, town, township or district the limit of taxation for educational and building purposes shall be the same as that fixed in section one, article eight, of this act); and except that it shall be the duty of the several boards of education or other officers of any city or incorporated town, township or district, having in charge schools under the provision of any of said special acts, or of any ordinance of any city or incorporated town, on or before the 15th day of July preceding each session of the general assembly of this state, or annually, if required so to do by the state superintendent of public instruction, to make out and render a statement of all such statistics and other information in regard to schools and the enumeration of persons, as is required to be communicated by township boards of trustees or directors, under the provisions of this act, or so much thereof as may be applicable to said city or incorporated town, to the county superintendent of the county where such city or incorporated town is situated, or of the county in which the larger part of such city or incorporated town is situated; nor shall it be lawful for the county superintendent, or any other officer or person to pay over any portion of the common school fund to any local treasurer, school agent, clerk, board of education, or other officer or person of any township, city or incorporated town, unless a report of the number of persons and other statistics relative to schools, and a statement of such other information as is required by the board of trustees or of directors, as aforesaid, and of other school officers and teachers, under the provisions of this act, shall have been filed at the time or times aforesaid, specified in this section, with the superintendent of the proper county, as aforesaid. [As amended by act approved and in force March 31, 1891.]

INCORPORATED SCHOOL REPORT—Sec. 8. It shall be the duty of the president, principal, or other proper officer of every organized university, college, seminary, academy, or other literary institution heretofore incorporated, or hereafter to be incorporated in this state, to make out, or cause to be made out and forwarded to the office of the state superintendent of public instruction, on or before the first day of August in each year, a report setting forth the amount and estimated value of real estate owned by the corporation, the amount of other funds and endowments, and the yearly income from all sources, the number of instructors, the number of students in the different classes, the studies pursued and the books used, the course of instruction, the terms of tuition, and such other matters as may be specially requested by said superintendent, or as may be deemed proper by the president or principal of such institution to enable the superintendent of public instruction to lay before the legislature a fair and full exhibit

of the affairs and conditions of said institutions, and of the educational resources of the state.

JUDGMENT ENFORCED—Sec. 9. If judgment shall be obtained against any township board of trustees or school directors, the party entitled to the benefit of such judgment may have execution therefor, as follows, to-wit: It shall be lawful for the court in which such judgment shall be obtained, or to which such judgment may be removed by transcript or appeal from a justice of the peace, or other court, to issue thence a writ commanding the directors, trustees and treasurer of such township, to cause the amount thereof, with interest and costs, to be paid to the party entitled to the benefit of such judgment; out of any moneys unappropriated of said township or district, or if there be no such moneys, out of the first moneys applicable to the payment of the kind of services or indebtedness for which such judgment shall be obtained, which shall be received for the use of such township or district, and to enforce obedience to such writ by attachment, or by mandamus, requiring such board to levy a tax for the payment of such judgment; and all legal processes, as well as writs to enforce payment, shall be served either on the president or clerk of the board.

COMPENSATION OF TRUSTEES AND DIRECTORS—Sec. 10. Trustees of schools, school directors, members of boards of education, or other school officers performing like duties, shall receive no pecuniary compensation, but they shall be exempt from road labor and military duty during their term of office.

EXEMPT—Sec. 11. All school officers elected in pursuance of any general law now in force shall hold their respective offices until their successors are elected and qualified under the provisions of this act.

NOTE—Sections 12 and 13 are left out, as they are quite lengthy and embrace nothing but the repealing and "emergency" clause.

ALL ALIKE—Boards of directors and boards of education must maintain schools open alike to all who have the right to attend such schools. A few years ago much litigation in some parts of the state grew out of the action of such boards, attempting to establish separate schools for colored pupils. On this question we merely give extracts from the court opinions as to the powers of school boards and their duties in providing schools for their districts.

ARE PUBLIC—"The free schools of the state are public institutions, and in their management and control the law contemplates that they shall be so managed that all the children within the district between the ages of six and twenty-one years, regardless of race or color, shall have equal and the same rights to participate in the benefits to be derived therefrom. While the directors, very properly, have large and discretionary powers in regard to the management and control of schools, in order to increase the usefulness, they have no power to make class distinction, neither can they discriminate between scholars on account of their race or social position. The conduct of the directors in this case in the attempt to keep and maintain a school solely to instruct three or four colored children, when they can be accommodated at the school house with the other scholars of the district, can be regarded as a fraud upon the taxpayers of the district, any one of

whom has a right to interfere to prevent the public funds from being squandered in such reckless and unauthorized manner." 71 Ill., 383.

COLORED PUPILS—The school board in the city of Quincy, Ill., had divided the city into eight school districts, in each of which colored pupils resided; that under the rules of the board, these colored pupils were excluded from the public schools in the districts where they resided, and were required to attend a school composed entirely of colored pupils. On passing on the case, the court said:

"This is a direct violation of the statute, which says the board is prohibited from excluding, directly or indirectly, any such children from such schools on account of color. Under the rule no reason is assigned which prohibits a colored pupil from attending the school in the district where he resides, except on account of its color. * * * * *

We are bound to declare the law as we find it written, and if it is not satisfactory to any section of the state, the remedy is in the legislative department of the government, and there alone. In conclusion, we are of the opinion that the board of education of the city of Quincy had no authority to adopt and embrace the rules set out in the information." 127 Ill., 663.

COURT OPINION—It may be that the wisest of both races believe that the best interests of each would be promoted by voluntary co-operation in the public schools, and while such voluntary action, not in violation of law could not be interfered with by the courts, yet the law is too plain for argument, and has often been decided, that no child otherwise entitled to attend any public school in the state, can, on account of the color of such child, be excluded, directly or indirectly, from such school by any school officer or public authority. 179 Ill., 615.

SPECIAL LAWS—Special laws governing in some school districts and in cities differ in many points, and require of the officers different duties in relation to the schools. Let the special charters or laws contain what they may, the school district and the officers are agents of the state to provide a system of free schools, and where the law makes a city a district, and the city officers are required to perform certain duties to the schools, there are two separate and distinct corporations with different objects and purposes. The law on the subject of public schools, whether in a city charter or amendments thereto, may be regarded as school law. 87 Ill., 595; 89 Ill., 296.

DOES NOT MODIFY—A law creating a municipal corporation and a school corporation, the organization of the municipal corporation under the general law does not repeal nor modify that part of the charter relating to schools. 89 Ill., 296.

GENERAL LAW WILL APPLY—A school board, under a special law, is subject to the general law, except in so far as the provisions of the special law are different from those in the general law. 112 Ill., 11.

SPECIAL TREASURERS—Treasurers in special school districts must give to those of whom he receives school funds satisfactory evidence that he has been duly elected or appointed, and has given bond as the special law requires. The law usually says how and to whom special districts shall report. In special school districts, the laws governing and authorizing the levy and collection of school taxes, usually defines the same. In some special districts the school boards may levy a tax for building purposes without a vote of the people.

NO POWER—If a special district is formed, and its boundary and powers defined by the legislature, the township trustees cannot change such boundary, unless they are given the power in the law creating the district. 20 Ill., App., 605.

NO RIGHT TO VOTE—The voters living in a special district, created by the legislature, have no right to vote at the township election for school trustee. It is held that the private law, conferring corporate powers upon a portion of the township, negatives the right of the inhabitants as a part of the body politic of the school township.

MECHANIC'S LIEN—A mechanic's lien will not lie against school property. But it has been held that a sub-contractor may sue out a lien, and secure payment for labor or material furnished.

SUB-CONTRACTOR'S LIEN—"Under section 24 of the lien law, 1895, a sub-contractor's lien for labor or material furnished for a public improvement is created, by performing such labor or furnishing such material, and becomes perfect as to all funds not paid over or bonds and warrants not delivered, upon service of the notice on the officials as specified." 171 Ill., 487.

PUBLIC FUNDS NOT GARNISHEED—Township school treasurers cannot be garnished. The money due to any person from a school treasurer belongs to the district, township or school fund up to the instant it is paid out on an order duly and properly issued. 85 Ill., 39; 45 Ill., 133; 59 Ill., 21.

EXECUTION—A general execution will not lie against a school board or school district. 71 Ill., 283; 9 Ill., App., 280.

OWN LIABILITY—Each school district is liable for its own debts, and trustees and school treasurers have no right to pay the debts of any school district from the distributable fund before such fund is distributed to the districts. 57 Ill., 118.

NO BOND REQUIRED—School boards are not required to give bond when taking appeals. 111 Ill., 27.

EMPLOY COUNSEL—In suits to recover any money due the school fund, counsel may be employed, if necessary, and a reasonable fee allowed from the proper fund. When such suits are unsuccessful, no cost can be charged by any court, before which such unsuccessful suits are tried, nor by any sheriff, constable or other officer. This construction applies to suits to recover debts due the school funds, and not to suits against the school officers.

NOT EXEMPT—School treasurers are not exempt from road labor, for the reason that they receive a compensation for services. School directors, trustees and members of boards of education are exempt from poll tax or road labor, but are not entitled to any other compensation for services. It has been claimed by some that a member, a clerk of the board of education or a board of directors, receiving pay as a clerk of the board, is not exempt from road labor. Such a view is erroneous. He receives pay for the clerical labor, and not for services which he renders as a member of the board, therefore he is exempt from such labor. 111 Ill., 11; 43 Ill., 22.

JUDGMENT SET ASIDE—"A decree or judgment obtained against a school district or school corporation by collusion with or neglect of its officers may be impeached for fraud." 117 Ill., 30; 55 Wis., 161.

ADDITIONAL LAWS PERTAINING TO THE PUBLIC SCHOOLS
AND TO SCHOOL OFFICERS.

MEMBERS OF THE BOARD OF EDUCATION APPOINTED.

AN ACT to provide for the appointment of school directors and members of the board of education, in certain cases, approved May 29, 1879; in force July 1, 1879.

APPOINTMENT—Sec. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That in all cases whereby [where, by] the provisions of any general or special law of this state heretofore passed, the members of the common council of any city having been made *ex-officio* school directors, or members of the board of education in and for the school district of which the said city shall constitute the whole or a part, the said school directors or members of the board of education shall hereafter be appointed as hereinafter provided.

DUTY OF MAYOR—Sec. 2. It shall be the duty of the mayor of said city, at the first regular meeting of the city council after each annual municipal election, and after his installation into office, to nominate and place before the council, for confirmation as school directors or members of the board of education, as the case may be, one person from each ward of said city to serve for two years, and one person from the city at large to serve one year, and if the persons so appointed shall be confirmed by a majority vote of the city council, to be entered of record, the persons so appointed, together with such persons theretofore appointed under the provisions of the act, to which this is an amendment, whose terms of service shall not expire within one year, shall constitute the board of education or school directors for such district: *Provided*, that the person appointed from the city at large for one year shall be president of said board of education or school directors, but shall have no vote in said board, excepting in case of a tie: *And, provided, further*, that the term of office of all persons heretofore appointed under the provisions of the act to which this is an amendment, whose term of office expires within one year, shall terminate at the first regular meeting of the city council after the annual meeting, and upon the appointment and confirmation of their successors. [As amended by act approved and in force May 28, 1889.]

ELECT SECRETARY—Sec. 3. The said persons shall, as soon as practicable after their appointment, organize by electing one of their number secretary, who shall hold his office for one year. All rights, powers and duties heretofore exercised by and devolved upon the members of the city council, as *ex-officio* members of the board of education, or school directors, shall devolve upon and be exercised by the members of the board of education and school directors appointed under the provisions of this act. [As amended by act approved and in force May 28, 1889.]

CERTIFY TAX LEVY—Sec. 4. In all school districts to which this act shall apply the boards of education or school directors shall annually, before the first day of August, certify to the city council, under the hands and seals of the president and secretary of the board, the amount of money required to be raised by taxation for school purposes in said district for the ensuing year, and the said city council shall thereupon cause the said amount to be levied and collected in the same manner now provided by law for the levy and collection of taxes for school purposes in such district, but the amount to be so levied and collected shall not exceed the amount now allowed to be collected for school purposes by the general school laws of this state; and when such taxes have been collected and paid over to the treasurer of such city or school district, as may be provided by the terms of the act under which such district has been organized, such funds shall be paid out only on the order of the board of education or the school directors, signed by the president and secretary of such board. [Approved May 29, 1879.]

REQUIRING AND REGULATING THE STUDY OF PHYSIOLOGY AND HYGIENE.

AN ACT to amend "*An act relating to the study of physiology and hygiene in the public schools,*" approved June 1, 1889; in force July 1, 1889. [Approved June 9, 1897; in force July 1, 1897.]

AMENDED—Sec. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That "*An act relating to the study of physiology and hygiene in the public schools,*" approved June 1, 1889, in force July 1, 1889, be amended so as to read as follows:

That the nature of alcoholic drinks and other narcotics and their effects on the human system shall be taught in connection with the various divisions of physiology and hygiene as thoroughly as are other branches in all schools under state control, or supported wholly or in part by public money, and also in all schools connected with reformatory institutions.

All pupils in the above mentioned schools below the second year of the high schools and above the third year of school work, computing from the beginning of the lowest primary year, or in corresponding classes of ungraded schools, shall be taught and shall study this subject every year from suitable text-books in the hands of all pupils, for not less than four lessons a week for ten or more weeks of each year, and must pass the same tests in this as in other studies.

In all schools above mentioned all pupils in the lowest three primary school years, or in corresponding classes in ungraded schools, shall each year be instructed in this subject orally for not less than three lessons a week for ten weeks in each year, by teachers using text-books adapted for such oral instruction as a guide and standard.

The local school authorities shall provide needed facilities and definite time and place for this branch in the regular course of study.

The text-books in the pupils' hands shall be graded to the capacities of the fourth year, intermediate, grammar and high school pupils, or to corresponding classes as found in ungraded schools.

For students below high school grade such text-books shall give at least one-fifth their space, and for students of high school grade shall give not less than twenty pages to the nature and effects of alcoholic drinks and other narcotics. The pages on this subject, in a separate chapter at the end of the book, shall not be counted in determining the minimum.

EXAMINATION—Sec. 2. In all normal schools, teachers' training classes and teachers' institutes, adequate time and attention shall be given to instruction in the best methods of teaching this branch, and no teacher shall be licensed who has not passed a satisfactory examination in this subject and the best methods of teaching it.

Any school officer or officers who shall neglect or fail to comply with the provisions of this act shall forfeit and pay for each offense the sum of not less than five dollars nor more than twenty-five dollars.

COMPENSATION OF JUDGES AND CLERKS OF ELECTION IN CERTAIN CASES.

AN ACT to provide for the compensation of judges and clerks of election at elections at which trustees of schools and school directors are elected under the provisions of an act entitled, "An act to regulate the holding of elections and declaring the result thereof in cities, villages and incorporated towns in this state," approved June 19, 1885.

AMENDED—Sec. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That at all elections held under the provisions of an act entitled, "An act to regulate the holding of elections and declaring the result thereof in cities, villages and incorporated towns in this state," approved June 19, 1885, and those amendatory and supplemental thereto, at which any trustee of school may have been heretofore or shall hereafter be elected, the expenses of such election shall be paid out of the treasury of such city, village and incorporated town.

NOTE—This relates to the judges and clerks of elections appointed by the board of election commissioners, and not to the officers of school elections generally.

EXPENSE PAID—Sec. 2. That all elections held under the provisions of said acts, at which a school director is elected, the expenses of such election shall be paid out of any funds belonging or appertaining to the district for which such director is elected.

AUTHORIZED TO LEVY—Sec. 3. The corporate authorities of cities, villages, incorporated towns and school districts are hereby authorized and empowered to levy taxes for the purpose of paying election expenses. [Approved June 3, 1889.]

ELECTION OF BOARDS OF EDUCATION IN CERTAIN CASES.

AN ACT to give cities, incorporated towns, townships and districts, in which free schools are now managed under special acts, authority to elect boards of education having the same powers as boards of education now elected under the general free school laws of this state.

CHANGE BOARD—Sec. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That any city, incorporated town, township or district, having a population of less than one thousand and not over twenty thousand inhabitants, in which free schools are now managed under any special act, may, by vote of its electors, determine to elect, instead of the directors or other governing or managing board, now provided for by such special act, a board of education which shall be elected at the time and in the manner and have the powers now conferred by law upon boards of education of districts not governed by any special act.

PETITION—Sec. 2. Upon petition of fifty voters of such city, town, township or district, presented to the board having the control and management of schools in such city, town, township or district, it shall be the duty of such board, at the ensuing election to be held in such city, town, township or district, to cause to be submitted to the voters thereof, giving not less than fifteen days' notice thereof, by posting not less than five notices in the most public places in such city, town, township or district, the question of "electing a board of education having the powers conferred upon such boards in districts organized under the free school laws," which notice may be in the following form, to-wit:

Public notice is hereby given, that on the day of..... A. D., 1....., an election will be held at, between the hours ofM. andM. of said day, for the purpose of deciding the question of "electing a board of education having the powers conferred upon such boards in districts organized under the free school law."

If it shall appear, upon a canvass of the returns of such election, that a majority of the votes cast at such election are "for electing a board of education having the powers conferred upon such boards in districts organized under the free school law," then at the time of the next regular election for boards of education under the free school law, there shall be elected a board of education for such district; and should there not be sufficient time to give the notice required by law for such election, then such election may be held on any Saturday thereafter, but all subsequent elections shall be held at the time provided by the free school law.

Sec. 3. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 4. WHEREAS, An emergency exists requiring this act to take immediate effect, therefore be it enacted that this act shall be in force from and after its passage. [Approved June 2, 1891.]

CHILD LABOR.

EMPLOYMENT OF CHILDREN UNDER 13 YEARS OF AGE PROHIBITED.

AN ACT *to prevent child labor.*

PROHIBITS—Sec. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That it shall be unlawful for any person, firm or corporation to employ or hire any child under thirteen years of age, except as hereinafter provided.

CERTIFICATE—Sec. 2. In case it shall be made to appear to the board of education or of school directors that the labor or services of any child constitutes and is the means of support of an aged or infirm relative, and that such relative is, in whole or in part, dependent upon such child, then the board of education or school directors shall issue to such child a certificate authorizing the employment of such child; such certificate shall state the name, residence and age of such child, and a record thereof shall be kept by the board of education or school directors in a book kept for that purpose.

NO CERTIFICATE—Sec. 3. No such certificate shall be granted to any child unless it shall be shown to the board of education or school directors [of the district] in which such child resides, that such child has attended some public or private day school for at least eight (8) weeks in the current school year.

FIRM OR CORPORATION—Sec. 4. No person, firm or corporation shall employ any child under the age of thirteen years in any store, shop, factory or manufacturing establishment, by the day, or any period of time greater than one day, unless such certificate be furnished, nor shall he permit any such child to work in his employ without such certificate. He or they shall be authorized to retain the certificate of any such child employed by him, which shall be evidence admissible in any court.

ANY PERSON—Sec. 5. Any person, firm or corporation who violates the provisions of this act, and any father, guardian or person having control of any child under the age of thirteen years, who willingly permits or consents to the employment of such child without such certificate as is prescribed by section three of this act shall, for every offense, be fined in a sum not less than ten nor more than fifty dollars, for the use of public schools of the city or district in which such child resides. And every day of the employment of any such child shall be deemed a separate offense. [Approved June 17, 1891.]

WOMEN MAY VOTE AT SCHOOL ELECTIONS.

AN ACT *to entitle women to vote at any election held for the purpose of choosing any officer under the general or special school laws of this state.*

CONFERS RIGHT—Sec. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* Any woman of the age of twenty-one years and upwards, belonging to either of the

classes mentioned in article 7 of the constitution of the State of Illinois, who shall have resided in this state one year, in the county ninety days, and in the election district thirty days preceding any election held for the purpose of choosing any officer of schools under the general or special laws of this state, shall be entitled to vote at such election in the school district of which she shall at the time have been for thirty days as a resident: *Provided*, any woman so desirous of voting at any such election shall have been registered in the same manner as is provided for the registration of male voters.

SHALL BE PERMITTED—Sec. 2. Whenever the election of public school officers shall occur at the same election at which other public officers are elected, the ballot offered by any woman entitled to vote under this act shall not contain the name of any person to be voted for at such election, except such officers of public schools, and such ballots shall all be deposited in a separate ballot-box, but canvassed with other ballots cast for school officers at such election. [Approved June 19, 1891.]

RIGHTS NOT GIVEN—The law only authorizes women to vote for school directors, members of boards of education, township trustees and trustees of the state university. They cannot legally vote upon any other questions, nor have they a legal right to sign any petitions required by the school law. 144 Ill., 68; 15 Kan., 26; 115 Mass., 602; 15 Neb., 444,

EXISTING INDEBTEDNESS.

AN ACT to allow directors of schools, under special laws, to assume and provide for indebtedness heretofore created by the authorities of a city for school purposes.

POWER—Sec. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That whenever any city in this state is by special law made a school district, or whenever any school district created by special law shall be co-terminous with any city, the directors of such district shall have the power, at the request of the city council, to assume and provide for, by borrowing and taxation, any indebtedness now existing, created by the authorities of the city for school purposes. [Approved June 22, 1891.]

NOTE—This act authorizes the directors of any school district, created by special act, the limits of which are co-extensive with a city, to assume and pay any existing indebtedness.

RELATING TO SCHOOL ATTENDANCE AND THE APPOINTMENT OF TRUANT OFFICERS.

AN ACT to promote attendance of children in schools and to prevent truancy. [Approved June 11, 1897; in force July 1, 1897.]

REQUIRES ATTENDANCE—Sec. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That every person having control of any child between the ages of seven (7) and fourteen (14) years shall annually cause such child to attend for

at least sixteen (16) weeks, twelve (12) weeks of such attendance shall be consecutive, some public or private school, which time, for pupils under ten (10) years of age, shall commence with the beginning of the first term of the school year of such school, and not later than December 1 of said school year for pupils above the age of ten (10) years, or as soon thereafter as due notice shall be served upon the person having such control of his duty under this act: *Provided*, that this act shall not apply in any case when the child has been or is being otherwise instructed, for a like period of time in each and every year, the elementary branches of education by a person or persons competent to give such instruction, or whose physical or mental condition renders his or her attendance impracticable or expedient, or who is excused for sufficient reason by any competent court of record,

PENALTY—Sec. 2. For every willful neglect of such duty as prescribed by section one (1) of this act, the person so offending shall forfeit to the use of the public school of the city, town or district in which such child resides, a sum not less than one (1) dollar nor more than five (5) dollars and costs of suit, and shall stand committed until such fine and costs of suit are fully paid.

OFFICER APPOINTED—Sec. 3. The board of education in cities, towns, villages and school districts, and the board of school directors in school districts, shall appoint, at the time of appointment or election of teachers each year, one or more truant officers, whose duty it shall be to report all violations of this act to said board of education or board of directors and to enter complaint against and prosecute all persons who shall appear to be guilty of such violation. It shall also be the duty of said truant officer so appointed to arrest any child of school-going age that habitually haunts public places and has no lawful occupation, and also any truant child who absents himself or herself from school, and to place him or her in charge of the teacher having charge of any school which said child is by law entitled to attend, and which school shall be designated to said officer by the parent, guardian or person having control of said child. In case such parent, guardian or person shall designate a school without making or having made arrangements for the reception of said child in the school so designated, or in case he refuses or fails to designate any school, then such truant officer shall place such child in charge of the teacher of the public school. And it shall be the duty of said teacher to assign said child to the proper class and to instruct him or her in such studies as he or she is fitted to pursue. The truant officer so appointed shall be entitled to such compensation for services rendered under this act as shall be determined by the boards appointing them, and which compensation shall be paid out of the distributable school fund: *Provided*, that nothing herein contained shall prevent the parent, guardian or person having charge of such truant child, which has been placed in any school by the truant officer, to thereafter send said child to any other school which said child is by law entitled to attend.

PENALTY—Sec. 4. Any person having control of a child who, with intent to evade the provisions of this act, shall make a wilfully false statement concerning the age of such child, or the time such child has attended school, shall for such offense forfeit a sum of not less than three (3) dollars nor more than twenty (20) dollars for the use of the public schools of such city, town, village or district.

RECOVERY—Sec. 5. Any fine and penalty mentioned in this act may be sued for and recovered before any court of record or justice of the peace of the proper county, in the name of the people of the State of Illinois for the use of the public schools of the city, town, village or district in which said child resides.

REPEALED—Sec. 6. An act entitled, "An act concerning the education of children," approved June 19, 1893, in force July 1, 1893, is hereby repealed. [Approved June 11, 1897.]

NOT RESPONSIBLE FOR ACTS—If a truant officer exceeds his authority, the board of education is not responsible. A truant officer is a creation of the statute. The board is required to make the appointment. Though a corporation, the board of directors or education is only such to discharge the important duties connected with education that the statute requires. Such boards have no private interests, and derive no special benefits or advantage from their corporate capacity, but their duties are essentially and exclusively of a public character.

The rule of "respondent superior," which is the superior master, must answer, or is responsible for the acts of his agent or servant, does not apply to the relations between the board of education and the truant officer. The duties of a truant officer are prescribed by the statute, and not by the board of education, although the board *may* make some regulations governing his conduct to some extent, as the statute provides. N. Y. App., 53; Supplement, 75.

SCHOOL INSPECTORS ELECTED UNDER CERTAIN SPECIAL ACTS.

AN ACT to amend section one of "An act extending the powers of boards of school inspectors elected under special acts," approved June 19, 1893. [Approved and in force June 11, 1897.]

CERTAIN DISTRICTS—Sec. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That section one of "An act extending the powers of boards of school inspectors elected under special acts," approved June 19, 1893, be amended so as to read as follows:

Be it enacted by the people of the State of Illinois, represented in the General Assembly: That in all cities in this state having over 20,000 and less than 100,000 inhabitants, whose schools are now operated under special law, and where, by such law, territory outside of the city limits is added to the territory within the city for school purposes, and where such school district or districts is not co-extensive with the township in which such city is situated, and where, by such special law, boards of school inspectors, consisting of six members (three in each of two districts), are elected, the provisions of any such special law dividing such territory into two districts shall be held to

be only for the purpose of electing members of the board of school inspectors, and for all other purposes the territory in two such districts shall be held to be included in one school organization, and the board of school inspectors, in addition to the other powers given by such special law, and the general school laws, shall have power to employ teachers, janitors and such other employes as such board shall deem necessary, and to fix the amount of their compensation, to buy or lease sites for school houses, with the necessary grounds; to build, erect, lease or purchase buildings suitable for school houses, to repair and improve school houses and to furnish them with the necessary supplies, fixtures, apparatus, libraries and fuel, and it shall be the duty of such board to take the entire supervision and control of the schools in such district or districts.

EMERGENCY—Sec. 2. [Act of 1897.] WHEREAS, An emergency exists, therefore this act shall take effect and be in force from and after its passage.

TAXATION—Sec. 2. [Original Act.] All money necessary for the purposes mentioned in section one of this act shall be raised as now provided by law, not to exceed the amount by law limited, and shall be held by the treasurer as a special fund for school purposes, subject to the order of school inspectors, upon warrants to be countersigned by the mayor and city clerk.

RECORD—Sec. 3. The said board shall provide well-bound books at the expense of the school tax fund, in which shall be kept a faithful record of all of its proceedings. The yeas and nays shall be taken and entered on the record of the proceedings of the board upon all questions involving the expenditure of money.

EMERGENCY—Sec. 4. WHEREAS, An emergency exists, therefore this act shall take effect and be in force from and after its passage. [Approved June 19, 1893.]

SCHOOL INSPECTORS.

AN ACT *increasing the number of school inspectors, elected under special acts, from six to seven members.*

INSPECTORS—Sec. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* That in all cities in this state having over 10,000 and less than 100,000 inhabitants, whose schools are now operated under special law, and where, by such special law, boards of school inspectors, consisting of six members (three in each of two districts) are elected, such board shall hereafter consist of seven members; and at the time other members of such boards are elected in April, 1895, and each three years thereafter, such additional member shall be elected for a term of three years, by all the voters entitled to vote at school elections of the entire school territory embraced in said two districts; and whenever such additional member is to be elected, he shall be designated and voted for as "member of board of school inspectors at large."

EMERGENCY—Sec. 2. WHEREAS, An emergency exists, therefore this act shall take effect and be in force from and after its passage. [Approved March 6, 1895.]

ELECTION OF BOARDS OF EDUCATION IN CERTAIN CASES.

AN ACT to provide for the election of boards of education in school districts organized under special acts of the legislature of this state where such school districts are maintained under the general school laws of this state, and where there is no provision in such special acts for the election of boards of education. [Approved June 10, 1897; in force July 1, 1897.]

Sec. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* That hereafter, in all school districts in this state, organized under any special law of this state, and maintaining public schools under the general laws of this state, where there is no provision in said special acts creating such special school districts, for the election of boards of education as otherwise provided, there shall be elected in each of said special school districts, in lieu of the school directors, as now provided, a board of education, to consist of seven members, to be elected at the time and in the manner as now provided by the general law for the election and qualification of boards of education in other cases: *Provided*, that at the first election of such board, which shall be held on the third Saturday in April, A. D. 1898, two of such members shall be elected to serve one year, two to serve two years and two to serve three years, and a president of such board shall be elected, whose term of office shall be one year, and annually thereafter there shall be elected in said school district two members of such board, whose term of office shall be three years, and there shall also be elected annually thereafter a president of said board. Said board of education, when so elected and qualified, shall have the power of trustees of schools in school townships, as is now provided by law.

NOTE—We are at a loss to find any authority that tends to show what the legislature was trying to accomplish by the passage of this act. By the following act it appears that an attempt was made to amend this law, but a study of the two acts very clearly demonstrates that our lawmakers will at last have to make another effort.

BOARDS OF EDUCATION UNDER SPECIAL ACTS.

AN ACT to amend an act entitled, "*An act to provide for the election of boards of education, and the defining of the powers of such boards of education, in school districts organized under special acts of the legislature of this state, where such school districts are maintained under the general school laws of this state, and where there is no provision in such special acts for the election of boards of education.*"

Sec. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* That section one of an act entitled "*An act to provide for the election of boards of education in school*

districts organized under special acts of the legislature of this state, where such school districts are maintained under the general school law of this state, and where there is no provision in such special acts for the election of boards of education," approved June 10, 1897, in force July 1, 1897, be, and the same is hereby, amended to read as follows:

Sec. 2. That hereafter, in all school districts in this state organized under any special law of this state, and maintaining public schools under any general school laws of this state, where there is no provision in said special acts creating such special school districts for the election of boards of education as otherwise provided, there shall be elected in each of said special school districts, in lieu of the school directors as now provided, a board of education, to consist of seven members, to be elected at the time and in the manner as now provided by the general law for the election and qualification of boards of education in other cases: *Provided*, that at the first election of such board, which shall be held on the third Saturday in April, A. D. 1898, two of such members shall be elected to serve one year, two to serve two years, and two to serve three years, and a president of such board shall be elected, whose term of office shall be one year; and annually thereafter there shall be elected in said school district two members of such board, whose term of office shall be three years, and there shall also be elected annually thereafter a president of said board. Said board of education, when so elected and qualified, shall have all the powers of trustees of schools in school townships as is now provided by general law. Said board of education, in addition to the powers of trustees aforesaid, shall also have all the powers of school directors as is now provided for by the general school law of this state; and in addition thereto and inclusive thereof, they shall have all the powers and perform all the duties of boards of education in school districts having a population of not less than one thousand and not over one hundred thousand inhabitants under the general school law as the same now exists and as set forth in article six of the school law, or as shall be conferred by any future alterations thereof by the legislature.

Sec. 2. WHEREAS, An emergency exists, therefore this act shall take effect from [and] after its passage. [Approved May 10, 1901.]

DOUBTFUL VALIDITY—This "act," with its emergency clause, appears to be intended to amend some "act" passed at a previous session of the legislature. If legislation is to be governed by the constitution of the state, we fail to see how this "act" can have any legal force and standing. The title, as will be seen, is "An act to amend an act entitled, 'An act to provide for the election of boards of education, and the defining of the powers of such boards of education, in school districts under special acts, etc.'"

The title of the bill is defective, in that it does not give the date of the approval of the act sought to be amended. The first section states it is to amend the act, approved June 10, 1897, and in force July 1,

1897. The act thus mentioned does not contain the clause, "and the defining of the powers of such boards of education." We take it that our legislature, by this act, attempts to amend a law that did not exist; hence, the act is void.

KINDERGARTEN SCHOOLS.

AN ACT *authorizing school districts managed by boards of education and directors to establish and maintain kindergarten schools.* [Approved April 17, 1895; in force July 1, 1895.]

SCHOOL DISTRICTS VOTE—Sec. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* That in addition to other grades or departments now established and maintained in the public schools of the state, any school district managed by a board of education or a board of directors is hereby empowered when authorized by a majority of all the votes cast at an election for that purpose, such election to be called and held in accordance with the provisions of Article IX of an act entitled "An act to establish and maintain a system of free schools," approved and in force May 21, 1889, to establish in connection with the public schools of such district, a kindergarten or kindergartens for the instruction of children between the ages of four and six years, to be paid for in the same manner as other grades and departments now established and maintained in the public schools of such district. No money accruing to such district from the school tax fund of the state shall be used to defray the tuition or other expenses of such kindergarten, but the same shall be defrayed from the local tax and the special school revenue of said district.

CERTIFICATES—Sec. 2. All teachers in kindergartens established under this act shall hold a certificate issued as provided by law, certifying that the holder thereof has been examined upon kindergarten principles, and is competent to teach the same. [Approved April 17, 1895.]

TEACHES' AND EMPLOYEE' PENSION FUND.

AN ACT *amending section 1 of an act entitled, "An act to provide for the formation and disbursement of a public school teachers' and public school employes' pension and retirement fund, in cities having a population exceeding 100,000 inhabitants."* [Approved May 31, 1895; in force July 1, 1895.]

Sec. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* That section 1 of "An act to provide for the formation and disbursement of a public school teachers' and public school employes' pension and retirement fund, in cities having a population exceeding 100,000 inhabitants," approved May 31, 1895, in force July 1, 1895, be amended so as to read as follows: That the board of education in cities having a population exceeding 100,000 inhabitants shall have power, and it shall be the duty of said board, to create a public school teachers' and public school employes' pension

and retirement fund, and for that purpose shall set apart the following money, to-wit:

1. An amount not exceeding one per cent per annum of the respective salaries paid to teachers and school employes elected by such board of education, which amount shall be deducted in equal installments from the said salaries at the regular time for the payment of such salaries.

2. All moneys received from donations, legacies, gifts, bequests or otherwise, on account of said fund.

3. All moneys which may be derived from any and all sources; *Provided, however*, that no tax shall ever be levied for said fund.

Any public school teacher or public school employe, a part of whose salary is now or may hereafter be set apart to provide for the fund herein created by this act, may be released from the necessities of making further payments to said fund by filing a written notice of his or her desire to withdraw from complying with the provisions of this act with said board of trustees, which said resignation shall operate and go into effect immediately upon its receipt by said board of trustees. [Amended May 11, 1901; in force July 1, 1901.]

TRUSTEES—Sec. 2. The board of education, together with the superintendent of schools, and two representatives to be selected annually by the teachers and employes of the public schools under control of said board, shall form a board of trustees, a majority of whom shall determine the amount to be deducted from the salaries paid to teachers and employes as aforesaid, and shall have charge of, and administer said fund, and shall have power to invest the same as shall be deemed most beneficial to said fund, in the same manner and subject to the same terms and conditions as township treasurers are permitted to invest school funds in article four (4) of an act entitled "An act to establish and maintain a system of free schools," in force May 5, 1889, and shall have power to make payments from said fund of annuities granted in pursuance of this act, and shall from time to time make and establish such rules and regulations for the administration of said fund as they shall deem best.

POWER—Sec. 3. Said board of education shall have power, by a majority vote of all its members, to retire any female teacher or other female school employe who shall have taught in public schools or rendered service therein for a period aggregating twenty years; and any male teacher or male school employe who shall have taught or rendered service for a period aggregating twenty-five years, and such teacher or school employe also shall have the right after said term of service to retire and become a beneficiary under this act: *Provided, however*, that three-fifths of said term of service shall have been rendered by said beneficiary within the limits of the municipality where said board of education has jurisdiction.

WHO ENTITLED—Sec. 4. Each teacher and school employe so

retired or retiring shall thereafter be entitled to receive as an annuity one-half of the annual salary paid to said teacher or employe at the date of such retirement, said annuity to be paid monthly during the school year: *Provided, however*, that such annuity shall not exceed the sum of six hundred dollars (\$600), which shall be paid by said board of education out of the fund created in accordance with this act in the manner provided by law for the payment of salaries.

TRUSTEES' POWER—Sec. 5. Said board of trustees is hereby given the power to use both the principal and the income of said fund for the payment of annuities hereinbefore mentioned, and shall have power to reduce, from time to time, the amount of all annuities: *Provided*, that such reduction shall be at the same rate in all cases.

OFFICERS CERTIFY—Sec. 6. The president and secretary of such board of education shall certify monthly to the city treasurer all amounts deducted from the salaries of teachers, special teachers, principals and employes of the board of education in accordance with the provisions of this act, which amounts as well as all other moneys contributed to said fund, shall be set apart and held by said treasurer as a special fund for the purpose hereinbefore specified, subject to the order of said board of education, superintendent of schools, and two representatives, as aforesaid, and shall be paid out upon warrants signed by the president and secretary of said board of education.

CITY TREASURER—Sec. 7. The city treasurer shall be custodian of said pension fund, and shall secure and safely keep the same subject to the control and direction of said board of trustees, and shall keep his books and accounts concerning said fund in such manner as may be prescribed by the said board. And said books and accounts shall always be subject to the inspection of the said board or any member thereof.

The treasurer shall, within ten days after his election or appointment, execute a bond to the city, with good and sufficient securities, in such penal sum as the said board shall direct, to be approved by the said board, conditioned for the faithful performance of the duties of his office, and that he will truly keep, and well and truly account for all moneys and profits which may come into his hands as such treasurer, and that on the expiration of his term of office he will surrender and deliver over to his successor all unexpended moneys and all property which may have come into his hand as treasurer of such fund. Such bond shall be filed in the office of the clerk of such city, and in case of a breach of the same or the conditions thereof, suit may be brought on the same in the name of said city for the use of said board of trustees or any person or persons injured by such breach.

CAUSE FOR DISCHARGE—Sec. 8. No teacher or other school employe who has been or who shall have been elected by said board of education, shall be removed or discharged except for cause upon writ-

ten charges, which shall be investigated and determined by the said board of education, whose action and decision in the matter shall be final.

If at any time a teacher or school employe who is willing to continue is not re-employed or is discharged before the time when he or she would under the provisions of this act be entitled to a pension, then such teacher or school employe shall be paid back at once all the money, with interest, he or she may have contributed under the law. [Approved May 21, 1895.]

CIVIL SERVICE—Under section 8 of the Teachers' Pension Fund act of 1895, the Chicago board of education has sole power to investigate and determine charges against teachers and school employes, involving their removal, but the civil service act of 1895 applies, in all other respects, to offices and places of employment under such board. 176 Ill., 620.

FLAG LAW.

AN ACT to provide for placing United States national flags on school houses, court houses and other public buildings in this state, and to repeal certain acts therein named. [Approved June 2, 1897; in force July 1, 1897.]

ON COURT HOUSE—Sec. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* That it shall be the duty of the board of supervisors in counties under township organization, and the board of commissioners in counties not under township organization, to provide United States national flags of not less than four by eight feet in size, to be unfurled and kept floating from a suitable flag staff to be placed on the top of the court house in their respective counties, and it is hereby made the duty of the sheriff of each and every county in the state to see that the flag so provided shall be hoisted on its flag staff above the court house and kept floating from eight o'clock a. m. to five o'clock p. m. on each and every legal holiday of the year, and on such other days as the board of supervisors or the board of county commissioners may direct.

PENAL INSTITUTIONS—Sec. 2. The commissioners or trustees of all penal and reformatory, state educational and state charitable institutions of this state shall provide United States national flags of not less than ten by twenty feet in size, and cause the same to be unfurled and kept floating above the said penal and reformatory, state educational and state charitable institutions, or on a suitable flag pole from eight o'clock a. m. to five o'clock p. m. on each and every legal holiday in the year, and on such other days as the commissioners or trustees may determine.

SCHOOLS—Sec. 3. The directors or board of education of every school district in the State of Illinois have power to cause to be erected and to keep in repair upon all public school houses or within the school grounds surrounding such public school buildings which may be in their

respective school districts, a good and sufficient flag staff or pole, together with all necessary adjustments, and that they shall provide a United States national flag of not less than four by eight feet in size, which shall be floated from such flag staff or pole during the school hours of such days as the directors or board of education may determine: *Provided*, that the flag shall not be hoisted on any court house, state institution or public school building during any day when a violent storm or inclement weather would destroy or materially injure such flag.

ARE NECESSARY SUPPLIES—Sec. 4. The flag used by any and all state institutions, as provided for in this act, shall be paid for out of the funds appropriated for the running expenses of said institutions, the same as other necessary supplies are bought and paid for, and the flags for use over court houses and public buildings are hereby declared to be necessary supplies, and may be paid for out of the public funds of the respective counties or school districts.

PENALTY—Sec. 5. Any person or persons who shall wilfully injure, deface or destroy any flag, flag staff or pole, or adjustments attached thereto, erected and arranged for the purpose of carrying out the requirements of this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than one (1) dollar nor more than fifteen (15) dollars.

REPEAL—Sec. 5. That an act entitled "An act to provide for placing the United States national flags on school houses, court houses and other buildings in the state," became a law June 26, 1895, in force July 1, 1895; and an act entitled "An act to require the United States flag to be placed upon all public buildings in Illinois, or upon a flag pole erected within the school grounds surrounding such school buildings," became a law June 26, 1895, in force July 1, 1895, be and the same are hereby repealed. [Approved June 2, 1897.]

CLASSES FOR DEAF CHILDREN IN THE PUBLIC SCHOOLS.

AN ACT *authorizing school districts managed by boards of education or directors to establish and maintain classes for the deaf in the public schools, and authorizing payment therefor from state common school funds.* [Approved June 11, 1897; in force July 1, 1897.]

DEAF CHILDREN—Sec. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* That upon application by a board of education or directors of any school district of the state to the state superintendent of public instruction, he shall grant permission to such board of education or directors, and such board of education or directors shall thereupon be empowered to maintain as a part of a public school, within its limits, one or more classes, having an average attendance of not less than three pupils, for the instruction of deaf persons over the age of three and under twenty-one years, residents of the State of Illinois.

REPORT—Such board of education or directors which shall maintain one or more classes for the instruction of the deaf shall report to the state superintendent of public instruction annually, and as often as said superintendent shall direct, such facts concerning such class or classes as he may require.

COUNTY SUPERINTENDENT—Sec. 3. The county superintendent of schools in each county is hereby authorized and directed to apportion and pay, out of the state common school fund received by such county, to the treasurer or other financial officer of such board of education or directors maintaining such class or classes for the instruction of the deaf, the sum of one hundred and fifty dollars for each deaf pupil, resident of such county, instructed in any such class for at least nine months during the school year, and a share of such sum proportionate to the term of instruction of any such pupil as shall be so instructed less than nine months during such year. If no such class shall be maintained in a public school in any county, but persons residing in such county shall attend such class in an adjoining county with the permission of the county superintendent of the county not maintaining such class, then said superintendent shall pay to the financial officer of the board of education or directors of the district maintaining such class the amount above specified for each pupil attending such class in such other county.

COUNTY SUPERINTENDENT PAYS—Sec. 4. The sums provided in the next succeeding section shall be paid by such county superintendent of schools as soon as may be after the receipt by him of the state common school fund in each year, upon satisfactory proof being made to him by the president and the secretary or clerk of such board of education or directors maintaining such class, of the number of pupils instructed in such class or classes, and their residences, and the period of time each such pupil shall have been instructed in such class or classes for the preceding school year.

APPOINTMENT OF TEACHERS—Sec. 5. All teachers in such classes shall be appointed by the state superintendent of public instruction upon application of the board of education or directors of the school district maintaining such class or classes; the state superintendent of public instruction to have the power to remove such teachers for cause. No person shall be appointed to teach any such class who shall not have first obtained a teacher's certificate, as provided by law, and who shall not have received specific instruction in the teaching of the deaf for a term of not less than one year. [Approved June 11, 1897.]

A MANUAL TRAINING DEPARTMENT FOR TOWNSHIP HIGH SCHOOLS.

AN ACT to provide for the establishment and maintenance of manual training departments for high schools. [Approved June 3, 1897; in force July 1, 1897.]

ELECTION—Sec. 1. Be it enacted by the people of the State of

Illinois, represented in the General Assembly: That upon the petition of not less than fifty voters of any high school district, filed with the township treasurer at least fifteen days preceding the regular election of members of the board of education for said high school district, it shall be the duty of the said treasurer to notify the voters of said district that an election "For" or "Against" the establishment of a manual training department for said high school will be held at the next annual election of the board of education by posting notices of such election in at least ten of the most public places throughout the township for at least ten days before the day of such regular election, which notice may be in the following form:

HIGH SCHOOL ELECTION.

Notice is hereby given that on Saturday, the.....day of April A. D..... an election will be held at.....for the purpose of voting "For" or "Against" the proposition to establish a manual training department for the high school in township No....range No.... The polls for said election will opened at.....o'clock and close ato'clock of said day.

.....
Township Treasurer.

BALLOT—Sec. 2. The ballots for such election shall be received and canvassed as in other elections, and may have on them the names of the board of education voted for at said election.

ESTABLISH—Sec. 3. If a majority of the votes cast at such election shall be in favor of establishing a manual training department for the high school in said district, it shall be the duty of the board of education to establish and maintain therein such department as a part of the high school. [Approved June 3, 1897.]

PARENTAL SCHOOLS IN CHICAGO.

AN ACT to enable boards of education or boards of school trustees to establish and maintain parental or truant schools.*

Sec. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* That in cities having a population of 100,000 inhabitants or more, there shall be established, maintained and conducted, within two years from the date of taking effect of this act, one or more parental or truant schools for the purpose of affording a place of confinement, discipline, instruction and maintenance of children of compulsory school age who may be committed thereto in the manner hereinafter provided.

Sec. 2. For the purpose of establishing such school or schools, sites may be purchased and buildings constructed or premises rented in the same manner as is provided for in the case of public schools in such cities; but no such school shall be located at or near any penal institution. And it shall be the duty of the board of education to furnish such schools with such furniture, fixtures, apparatus and provisions as may be necessary for the maintenance and operation thereof.

Sec. 3. The board of education may also employ a superintendent and all other necessary officers, agents and teachers; and shall prescribe the methods of discipline and the course of instruction; and shall exercise the same powers and perform the same duties as is prescribed by law for the management of other schools.

Sec. 4. No religious instruction shall be given in said school except such as is allowed by law to be given in public schools; but the board of education shall make suitable regulation so that the inmates may receive religious training in accordance with the belief of the parents of such children, either by allowing religious services to be held in the institution or by arranging for attendance at public services elsewhere.

Sec. 5. It shall be the duty of any truant officer or agent of such board of education to petition, and any reputable citizen of the city may petition, the county or circuit court of the county, to inquire into the case of any child of compulsory school age who is not attending school, and who has been guilty of habitual truancy, or of persistent violation of the rules of the public school, and the petition shall also state the names, if known, of the father and mother of such child, or the survivor of them; and if neither father nor mother of such child is living, or cannot be found in the county, or if their names cannot be ascertained, then the name of the guardian, if there be one known; and if there be a parent living, whose name can be ascertained, or a guardian, the petition shall show whether or not the father or mother or guardian consents to the commitment of such child to such parental or truant school. Such petition shall be verified by oath upon the belief of the petitioner, and upon being filed the judge of the county or circuit court shall have such child named in the petition brought before him for the purpose of determining the application in said petition contained. But no child shall be committed to such school who has ever been convicted of any offense punishable by confinement in any penal institution.

Sec. 6. Upon the filing of such petition the clerk of the court shall issue a writ to the sheriff of the county directing him to bring such child before the court, and if the court shall find that the material facts set forth in the petition are true, and if, in the opinion of the court, such child is a fit person to be committed to such parental or truant school, an order shall be entered that such child be committed to such parental or truant school, to be kept there until he or she arrives at the age of fourteen years unless sooner discharged in the manner hereinafter set forth. Before the hearing aforesaid notice in writing shall be given to the parent or guardian of such child, if known, of the proceedings about to be instituted, that he or she may appear and resist the same if they so desire.

Sec. 7. It shall be the duty of the parent or guardian of any child committed to this school to provide suitable clothing upon his or her entry into such school and from time to time thereafter as it may be

needed, upon notice in writing from the superintendent or other proper officer of the school. In case any parent or guardian shall refuse or neglect to furnish such clothing, the same may be provided by the board of education, and such board may have an action against such parent or guardian of said child to recover the cost of such clothing with 10 per cent. additional thereto.

Sec. 8. The board of education of such city shall have power to establish rules and regulations under which children committed to such parental or truant school may be allowed to return home upon parole, but to remain while upon parole in the legal custody and under the control of the officers and agents of such school, and subject at any time to be taken back within the enclosure of such school by the superintendent or any authorized officer of said school except as hereinafter provided; and full power to enforce such rules and regulations to retake any such child so upon parole is hereby conferred upon said board of education. No child shall be released upon parole in less than four weeks from the time of his or her commitment, nor thereafter until the superintendent of such parental or truant school shall have become satisfied from the conduct of such child that, if paroled, he or she will attend regularly the public or private school to which he or she may be sent by his or her parents or guardian, and shall so certify to the board of education.

Sec. 9. It shall be the duty of the principal or other person having charge of the school to which such child so released on parole may be sent to report at least once each month to the superintendent of the parental or truant school, stating whether or not such child attends school regularly and obeys the rules and requirements of said school; and if such child so released upon parole shall be regular in his or her attendance at school and his or her conduct as a pupil shall be satisfactory for a period of one year from the date which he or she was released on parole, he or she shall then be finally discharged from the parental or truant school, and shall not be recommitted thereto except on petition as hereinbefore provided.

Sec. 10. In case any child released from said school upon parole, as hereinbefore provided, shall violate the conditions of his or her parole at any time within one year thereafter, he or she shall upon the order of the board of education, as hereinbefore provided, be taken back to such parental or truant school and shall not be again released upon parole within the period of three months from the date of such re-entering; and if he or she shall violate the conditions of a second parole he or she shall be recommitted to such parental or truant school and shall not be released therefrom on parole until he or she shall remain in such school at least one year.

Sec. 11. In any case where a child is found to be incorrigible and his or her influence in such school to be detrimental to the interests of the other pupils, the board of education may authorize the superin

tendent or any officer of the school to represent these facts to the circuit or county court by petition, and the court shall have authority to commit said child to some juvenile reformatory.

Sec. 12. Boards of education in cities having a population of over 25,000 and less than 100,000 may establish, maintain and operate a parental or truant school for the purposes hereinbefore specified, and, in case of the establishment of such a school, the boards of education shall have like power in their respective cities as is heretofore [hereinbefore] expressed: *Provided*, that no board of trustees or board of education under this section shall put this law into effect until submitted to a vote of the people and adopted by a majority vote at some general election. [Approved April 24, 1899.]

GIVING CERTAIN CITIES WITH SPECIAL SCHOOL CHARTERS THE GOVERNMENT OF SCHOOL IN ANNEXED TERRITORY.

AN ACT giving cities organized under special charters and having the government of public schools under such charters, the government of public schools in any territory annexed to said cities; with the right to levy and assess taxes for school purposes against the property in said territory so annexed.

Sec. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* That in all cities in this state, having a population of less than twenty thousand, and incorporated under any special law, whose public or common schools within the corporate limits of said city are governed by virtue of such special acts, where any territory has been heretofore, or may hereafter be annexed to said city for general corporate purposes, such territory so annexed shall be included in, and shall be subject to the control and government of, said cities for school purposes upon petition signed by a majority of the legal voters in the territory to be annexed as fully and to the same extent as if the said territory were originally within the corporate limits of said city as created by such special acts, and said territory, when so annexed, shall thereby become disconnected from any school district to which, prior to such annexation, it may have been connected or belonged.

Sec. 2. All cities referred to in section one of this act shall have the right to levy, assess and collect taxes for school purposes in the territory so annexed, in the same manner, and as fully and to the same extent as the said cities may now have said right over the territory comprised within the original corporate limits of said cities. [Approved April 12, 1899.]

BOARDS OF TRUSTEES, DIRECTORS OR MANAGERS OF EDUCATIONAL INSTITUTIONS TO ELECT THEIR PRESIDENTS.

AN ACT to provide that the board of trustees, directors or managers, or the senate, of any college, seminary, academy or other educational institution, incorporated under any general or special

law of this state, solely for educational purposes and possessing no capital stock, may elect its own presiding officer.

Sec. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* That the board of trustees, directors or managers, or the senate, of any college, seminary, academy or other educational institution, incorporated under any general or special law of this state, solely for educational purposes, and possessing no capital stock, may elect its own presiding officer for such term as the board or senate may determine, the provisions of any special charter to the contrary, notwithstanding.

Sec. 2. WHEREAS, an emergency exists, therefore this act shall take effect and be in force from and after its passage. [Approved April 12, 1899.]

BONDS FOR PURCHASE OF SCHOOL BUILDINGS OR SITES.

AN ACT to authorize certain school districts to issue bonds for certain purposes.

Sec. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* That for the purpose of building or repairing school houses, or purchasing or improving school sites, any school district in this state existing by virtue of any special charter, and governed by such special charter and special or general laws, whose boundaries are coextensive with the boundaries of any incorporated city, town or village, where authorized by a majority of all the votes cast at an election called for that purpose, may borrow money, and as evidence of such indebtedness may issue bonds in denominations of not less than one hundred (100) dollars, nor more than one thousand (1,000) dollars, for a term not to exceed twenty (20) years, bearing interest at a rate not to exceed five (5) per centum per annum, payable annually, semi-annually or quarterly, and signed by the president and secretary of the board of education of such school district: *Provided*, that the amount borrowed in any one year shall not exceed, including existing indebtedness, five (5) per centum of the taxable property of such school district, to be ascertained by the last assessment for state and county taxes previous to incurring such indebtedness.

Sec. 2. All bonds authorized by virtue of this act, before being issued, negotiated and sold, shall be registered, numbered and countersigned by the treasurer of such school district. Such register [registration] shall be made in a book provided for this purpose, and in this register shall be entered the record of the election authorizing such school district to issue bonds, and a description of the bonds issued, including the number, date, amount, rate of interest and when payable.

Sec. 3. All moneys, borrowed by virtue of this act shall be paid into the treasury of such school district, and upon receiving such

oneys the treasurer shall deliver the bond or bonds issued therefor to the person or persons entitled to receive the same, and shall credit the amount received to such school district. The treasurer shall record the exact amount received for each bond issued, and when any bond is paid the treasurer shall cancel the same and enter, in the register opposite the record of such bond the words, "Paid and cancelled this day of 19....," filling the blanks with the date, month and year corresponding with the date of such payment.

Sec. 4. Whenever it is desired to hold an election for the purpose of borrowing money, as provided by this act, the board of education of such school district in which such election is to be held shall give at least ten (10) days' notice of the holding of such election, by posting notices in at least three public places in such district. Such notices shall specify the place where such election is to be held, the time of opening and closing the polls, and the proposition to be voted on. At such election two members of the board of education shall act as judges and one member shall act as clerks. The judges and clerk shall take the oath required of judges and clerks of an election held for county or township officers. At such election all votes shall be by ballot.

Sec. 5. Within ten (10) days after such election the judges shall cause the poll-book to be returned to the treasurer of said school district, with a certificate thereon showing the result of such election. The poll-book shall be filed by the treasurer, and shall be evidence of such election. For a failure to return the poll-book to the treasurer within the time prescribed, the judges of said election shall be liable, severally, to a penalty of not less than twenty-five (25) dollars nor more than one hundred (100) dollars, to be recovered in a suit in the name of the People of the State of Illinois, before any justice of the peace, and when collected shall be added to the school fund of said district.

Sec. 6. Where any such school district has heretofore issued bonds, or other evidences of indebtedness, on account of any public school building, or for any other purpose, which are now binding and subsisting obligations against such school district and remaining outstanding, such school district may, upon the surrender of any such bonds or any part thereof, or other evidence of indebtedness, issue in lieu thereof, to the holder or holders of said bonds, or to any person or persons, for money with which to take up the same, new bonds in accordance with the provisions of this act: *Provided*, such bonds shall not be issued so as to increase the aggregate indebtedness of such school district to exceed, including existing indebtedness, five (5) per centum of the taxable property of such school district to be ascertained by the last assessment for the state and county taxes previous to incurring such indebtedness.

Sec. 7. WHEREAS, An emergency exists, this act shall be in full force and effect from and after its passage. [Approved May 10, 1901.]

HIGH SCHOOLS.

AN ACT to amend sections 41 and 42 of article 3 of an act entitled, "An act to establish and maintain a system of free schools," approved May 21, 1899, and in force May 21, 1899, and legalize high school organizations.

Sec. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* That sections 41 and 42 of an act entitled, "An act to establish and maintain a system of free schools," approved May 21, 1889, and in force May 21, 1889, be, and the same are hereby, amended [so as] to read as follows:

Sec. 41. For the purpose of building school houses, supporting the school and paying other necessary expenses, the territory for the benefit of which a high school is established under any of the provisions of this act shall be regarded as a school district, and the board of education thereof shall have the power and discharge the duties of directors of schools for such districts in all respects.

Sec. 42. Two or more adjoining townships, or two or more adjoining school districts, whether in the same or different townships, may, upon like petition as required for township high schools, signed at by at least fifty (50) legal voters in each of said townships or school districts, and where any such school district contains less than 150 voters, then such petition shall be signed by at least one-third of the legal voters of such district, and upon an affirmative vote in each of such townships or districts, at an election held pursuant to the provisions of section 38 of this act, establish and maintain, in the same manner as in this act it is provided for township high schools, a high school for the benefit of the inhabitants of the territory described in such petition. And the inhabitants of any territory composed of parts of adjoining townships who are now maintaining a high school and who have elected a board of education, may create such territory a high school district, by a petition of fifty (50) legal voters of such district and by an affirmative vote in such district, and may elect a board of education therefor as in other high school districts. All such high schools may be discontinued in the same manner as township high schools: *Provided*, that any school district having a population of at least two thousand (2,000) inhabitants, may in the same manner as herein provided for establishing and maintaining a township high school, establish and maintain a high school for the benefit of the inhabitants of such school district, and elect a board of education therefor with the same powers hereby conferred on township boards of education. All attempted high school districts in which the inhabitants are maintaining a high school and have in good faith elected a board of education substantially as herein required, are hereby declared to be valid and lawful high school districts and the board of education elected therefor legal boards of education. [Approved May 11, 1901.]

NUMBERING SCHOOL DISTRICTS.

AN ACT *to provide for numbering consecutively all school districts in each county in the state, and for numbering school districts which lie in two or more counties.*

Sec. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* That all school-districts shall be numbered consecutively in each county, beginning with number one, and each shall be designated as school district number, county of and State of Illinois, and such designation shall be for all purposes for which school districts are now designated by number, township and range, or otherwise; and when any district lies in two or more townships or ranges, or in two or more counties such district, as a whole, shall have only one number in the consecutive list.

Sec. 2. It shall be the duty of the county superintendent of schools, to prepare a map of his county on scale of not less than two inches to the mile, and to clearly indicate thereon the boundary lines of all school districts, as established, and to plainly number such districts in consecutive order; and in case of districts composed of parts of two or more counties the county superintendents of such counties shall agree upon the number to be given such districts, which shall not be a duplicate of any number in either of such counties.

Sec. 3. The county superintendent shall furnish to township school treasurers a list of districts in his township, giving the former number of the respective districts and the consecutive number thereof, as made upon the map of the county, and the county superintendent shall be authorized to demand of the board of trustees of townships certified copies of maps and records of school districts as organized; and in case of discrepancies or defects in defining the boundaries of school districts, the county superintendent, or superintendents of two or more counties in case of districts in two or more counties, acting jointly, shall be authorized to define such boundaries to conform to what may appear to have been the intention of the trustees when such boundaries were established, and when so defined by the county superintendent or superintendents, acting jointly for two or more counties, such boundaries so defined shall stand until changed, as provided by law.

Sec. 4. The county clerk of each county shall number the school districts on the maps in his office to correspond with the numbers of districts as established by this act, and shall use such numbers in computing and reporting school taxes, as required by law. Assessors shall return their assessments of each person's assessment of personal property by such consecutive numbers.

Sec. 5. All acts and parts of acts in conflict herewith are hereby repealed. [Approved May 10, 1901.]

STATE TEACHERS' ASSOCIATION.

AN ACT *to authorize the Secretary of State to print the proceedings of the State Teachers' Association.*

Sec. 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* That the Secretary of State is hereby authorized and empowered to have the proceedings of the Illinois State Teachers' Association printed and bound on the same terms as the proceedings of other state boards are printed.

Sec. 2. It shall be the duty of the state superintendent of public instruction to approve the manuscript of said proceedings before it is placed in the hands of the secretary of state to be printed.

Sec. 3. It is hereby made the duty of the auditor of public accounts to draw his warrant on the state treasurer, to be paid out of the appropriation for printing, upon a voucher properly certified to by the board of commissioners of state contracts. [Approved May 11, 1901.]

COUNTY NORMAL SCHOOLS.

AN ACT to enable counties to establish county normal schools.

VOTE—Sec. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That in each county adopting township organization, the board of supervisors, and in other counties the county court, may establish a county normal school for the purpose of fitting teachers for the common schools. That they shall be authorized to levy taxes and appropriate moneys for the support of said schools, and also for the purchase of necessary grounds and buildings, furniture, apparatus, etc., and to hold and acquire, by gift or purchase, either from individuals or corporations, any real estate, buildings or other property, for the use of said schools, said taxes to be levied and collected as all other county taxes: *Provided*, that in counties not under township organization, county courts shall not be authorized to proceed under the provisions of this act until the subject shall have been submitted to a vote of the people, at a general election, and it shall appear that a majority of all the votes cast on the subject, at said election, shall be in favor of the establishment of a county normal school. The ballots used in voting on this subject may read "For a county normal school," or "Against a county normal school."

MANAGEMENT—Sec. 2. The management and control of said school shall be in a county board of education, consisting of not less than five or more than eight persons, of which board the chairman of the board of supervisors or the judge of the county court, as the case may be, and the county superintendent of schools, shall be *ex-officio* members. The other members shall be chosen by the board of supervisors or county court, and shall hold their offices for the term of three years. But at the first election one-third shall be chosen for one year, one-third for two years, and one-third for three years, and thereafter one-third shall be elected annually. Said election shall be held at the annual meeting of the board of supervisors in September, or at the September term of the county court, as the case may be.

POWER—Sec. 3. Said board of education shall have power to hire teachers, and to make and enforce all needful rules and regulations for the management of said schools. A majority of said board shall constitute a quorum for the transaction of business, and a meeting of said board may be called at any time by the president or secretary, or by any three of the members thereof. Said board shall proceed to organize, within twenty days after their appointment, by electing a president, who shall hold his office for one year, and until his successor shall be appointed. The county superintendent shall be, *ex officio*, secretary of the board. Said board shall make to the board of supervisors, at their annual meeting in September, or to the county court at the September term, as the case may be, a full report of the condition and expenditures of said county normal school, together with an estimate of the expenses of said school for the ensuing year.

COUNTIES UNITE—Sec. 4. Two or more counties may unite in establishing a normal school, in which case the per cent. of tax levied for the support of said school shall be the same in each county.

APPROPRIATIONS—Sec. 5. In all counties that have already established normal schools, the action of the board of supervisors in so doing, and all appropriations made by them for their support, are hereby legalized, and said board of supervisors are hereby authorized and empowered to make further appropriations for the support of such schools already established, until such schools shall have been established under the previous sections of this act.

COMPENSATION—Sec. 6. No member of the aforesaid county board of education shall be entitled to compensation for services rendered as a member of such board.

IN FORCE—Sec. 7. This act shall be in force from and after its passage. [Approved March 15, 1869.]

THE ILLINOIS UNIVERSITY.

AN ACT to provide for state scholarships in the University of Illinois, and the manner of awarding the same. [Approved June 24, 1895; in force July 1, 1895.]

Sec. 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That to equalize the advantages of the University of Illinois to all parts of the state, there shall be awarded annually, as hereinafter provided, to each county of the state one state scholarship, which shall entitle the holder thereof, who shall be a resident of the senatorial district to which he is accredited, to instruction in any or all departments of said University of Illinois for a term of four years, free from any charge for tuition or any incidental charge, unless such incidental charges shall have been made for materials used or for damages needlessly done to property of the university: *Provided*, that in counties having two or more senatorial districts, there shall be awarded annually one additional scholarship for each of said senatorial districts.

Sec. 2. A competitive examination under the direction of the superintendent of public instruction shall be held at the county court house in each county of the state upon the first Saturday of June in each and every year by the county superintendent of schools, upon such branches of study as said superintendent of public instruction and the president of said university may deem best.

Sec. 3. Questions for such examinations shall be prepared and furnished by the president of the university to the superintendent of public instruction, who shall attend to the printing and distribution thereof to the several county superintendents of schools prior to such examinations.

Sec. 4. In case any candidate who shall be awarded a scholarship shall fail to pass the entrance examination to the university, or shall fail to claim the privileges of such scholarship, or, having claimed the privileges, shall be expelled, or for any reason shall abandon his right to, or vacate, such scholarship, either before or after entering thereupon, then the candidate certified to be next entitled in the same county shall become entitled to the same. In case any scholarship belonging to any county shall not be claimed by any candidate resident in that county, the superintendent of public instruction may fill the same by appointing some candidate first entitled to a vacancy in some other county, after notice has been served upon the county superintendent of said first mentioned county.

Sec. 5. The county superintendents shall, within ten days after such examination, make and file in the office of the superintendent of public instruction certificates, in which they shall name all the candidates examined, and specify the order of their excellence; and such candidates shall, in the order of their excellence, become entitled to the scholarships belonging to their respective counties. The examination papers handed in by each candidate shall also be filed with the certificate of examination.

Sec. 6. Candidates, to be eligible to said scholarship, shall be at least sixteen years of age, and shall have been *bona fide* residents of their respective counties for at least one year immediately preceding the examination.

Sec. 7. Any student holding a state scholarship, and who shall make it appear to the satisfaction of the president of the university that he requires leave of absence for the purpose of earning funds to defray his expenses while in attendance, may, in the discretion of the president, be granted such a leave of absence, and may be allowed a period not exceeding six years from commencement thereof for the completion of his course at said university.

Sec. 8. Notices of the time and place of the examination shall be given in the schools having pupils eligible thereto prior to the first day of January in each year. The superintendent of public instruction shall attend to the giving of the notices hereinbefore provided for. He

may, in his discretion, direct that the examination in any county may be held at some other time and place than that hereinbefore specified. He shall keep full records in his department of the reports of the different examiners, showing the age, post office address and standing of each candidate, and shall notify candidates of their rights under this act. He is hereby charged with the general supervision and direction of all matters in connection with the filling of such scholarships. He shall determine any controversy which may arise under this act.

Sec. 9. Students enjoying the privileges of state scholarships shall, in common with other students of said university, be subject to all the examinations, rules and requirements of the board of trustees and faculty, except as herein provided.

Sec. 10. Nothing herein contained shall be construed to prevent the board of trustees of said university from granting such other free scholarships as in their discretion may be deemed best.

ARBOR DAY.

AN ACT to encourage the planting of trees.

Be it enacted by the People of the State of Illinois, represented in the General Assembly: That the governor shall annually, in the spring designate, by official proclamation, a day to be designated as "Arbor Day," to be observed throughout the state as a day for planting trees, shrubs and vines within this state, thus contributing to the wealth, comforts and attractions of our state. Approved June 10, 1887.

OBJECT OF SCHOOLS—If the schools and those who have the management of educational affairs will arrange annually to observe and celebrate "Arbor Day," good will result to the children. The planting of trees and shrubs in and around the school grounds, and exercises by the pupils in reading and reciting suitable selections for the occasion will give a great stimulus to the children and create in them a love for school and nature.

Why maintain public schools, and upon what principle does the state levy taxes for school purposes, are questions worthy of the greatest consideration at the hands of the people in a government like this. All admit that the safety and prosperity of the state depends upon intelligent citizenship which in a republican form of government is most vital and essential and can be best directed by the state.

Education forms the base of national institutions, in a government like ours, for the reason that they rest on the principles of self-government, which requires the most liberal dissemination of intelligence. The state, wisely provides for the *education* of the children by maintaining free schools which are open to all without price or distinction. The wisdom of the state thus looking to the *education* of the children and future citizens of a republic will be conceded when time is taken to consider what the results would be were the *education* of the youth, largely left to private effort.

All must realize that *education* is far more than the mere knowledge of books, though this knowledge or learning may be the most profound. Teaching and training should instill into the minds and hearts of the young the principles of morality, virtue, truth, justice, patriotism,

charity, economy, and a love for the beautiful and lead them to shun idleness, profanity, and intemperance.

The mission of the schools and the age is to supplant ignorance by education and knowledge, and sin by virtue, and enkindle the zeal of the loftiest for the right and afford opportunity and reward to the most lowly.

He who assumes to be a teacher of today, should lead the vanguard of humanity, whether in the college, seminary, or the little school house by the wayside. "Train up a child in the way he should go, and he will not depart from it." The first three or four years of school life gives to the children more ideas than all the remaining years in school will give them. The ideas and the impressions formed in early school life are lasting and have much to do with the success or failure of each individual. It should be a never ending proclaim in every school that there are original, immutable and indestructible maxims of moral rectitude which no conditions or circumstances can effect, no sophistry obliterate. That to this eternal measure every individual of the human race is bound to conform, and, that by it the conduct of every man and woman shall be adjudged.

Teach to the pupils that he who irreverently uses the name of the Deity is a blasphemer, whether he be a judge in his ermine, a "hobo" or a scullion. Let it be indelibly stamped upon the minds and in the hearts of the children that he who speaks lightly or sneeringly of the honor of a woman is a calumniator, be his pretensions to gentility the most vaunted. Instill into the youth that he who purposely falsifies the truth is a liar, whether he be a United States Senator, minister of state or the poorest beggar in rags on his own dunghill.

In all the schools, tell the children that he who habitually drinks intoxicating liquors to excess is a drunkard, whether it be the most costly wines and champagnes from tankards of gold, in the most palatial saloon, or stale intoxicants from tin castaway cans in the grog-shop or the back alley.

It should be taught to the children that he who wantonly maligns an opponent for the benefit of his party, is as vile as the perjured hireling who slanders his neighbor for pay. That he who defrauds the government under cover of the technicalities of the law, is as much a thief as he who wilfully and knowingly appropriates, to his own use the money and chattels of another.

It should be implanted in the minds and the hearts of the young that dishonesty, fraud and falsehood are as despicable and criminal in those in the most exalted stations as in the most obscure, as in politics as in the business walks of life. Let it be so with the whole category of vices and crimes, till the lines of demarcation between right and wrong, good and evil, shall be graven so deeply upon the minds and character of the children that they can never be effaced. On wise and systematic training, based on the widest knowledge, the truest morality, and tending ever to universal good, as the only assurance of special or personal well-being, rests the great hope of terrestrial renovation and elevation of man.

While vice is pointed to in all its forms, let the schools, at no time, fail to direct the children and point them to those noble and enduring honors which cluster in eternal loveliness upon the brow of *virtue*. Proclaim to the children that conquest of *self* is more glorious than victories by land or by sea. It enkindles the fire of zeal in the heart of every good being, and makes the star of happiness shine out more vividly on life's horizon, and fills the mind with higher and nobler vir-

tues. It expells cruelty, curbs passion and changes vice to virtue, and ennobles labor from a vulgarity to a dignity.

Impress upon the children that labor is the only door to achievement, and direct them to the experience of the world, and show them that dishonesty and extravagance rot men and women down, limit their usefulness and shorten their career. Teach the children that if they are sent to bring something to *bring it*, and not an explanation or an excuse.

Lead the children to feel and know the difference between scholarship and education. Inspire them with a desire to make the right use of knowledge. Teach them that *education* means training, not memorizing or stuffing, and that the mind must be a workshop, not a garret in which you can find everything in one promiscuous heap from which, not a thing that is needed for work in this modern day, can be drawn. Implant in their minds that the whole catalogue of institutions, at best, is on a level with the men and women of the times and not infrequently a century behind.

We hear some one say: "This cannot be done." It can be accomplished without interfering with the usual routine of school work, but not in the form of set lectures and preachings, for that is not the true way to instruct the young in morals and the paths of rectitude; but by the power and force of living examples in the teacher, and by the earnest and skillful use of the innumerable incidents and happenings in the daily life of the school and of the community.

The teacher should drink deep of the lesson taught in that little sentence of four words, "Perseverance wins the day." He should fully realize the lesson taught by the sower, who went forth to sow; some of the seed fell by the wayside and the birds got them; some fell in stony places and they could not root; some fell among thorns and they were choked by their wicked neighbors, and some fell on fertile soil and brought forth an abundant harvest. The teacher should be fully imbued with the axiom, that the increase of brain power and mere intellectual acquisitions in the makeup of a true education are as the grain of sand in the composition of the seashore. The most incarnate fiend may take the highest honors at Yale or Oxford in science and letters, and, if that is all, be only the more a fiend.

The schools should diffuse widely and thoroughly a living consciousness of the brotherhood of mankind, and the blessedness, as well as the righteousness, of doing ever as we would have others do to us. Such a spirit guards the welfare of the orphan, covers as with a halo of social innocence the tender years of childhood and youth, creates the very conception of charity and broadens the limits of its obligations from the narrow circle of a few to the widest horizon of the race.

When the schools and teachers have thus lead the children to the high plane of transfiguration and showed them the moral and spiritual brightness that may encircle a human being, they will not have failed in sending forth good citizens, and crime and evil shall vanish before the influence of universal education, purity and happiness, and when the last sun sets behind the hills of time it will light up the homes of the countless children of freedom, and its last lingering rays will shed their light on the tombs of teachers whose lives were nobly spent and whose duties were well performed; and the last breeze that ever fans this earth will lovingly caress the banner of the republic, the sheet anchor of liberty and prosperity.

CONSTITUTIONAL PROVISIONS FOR SCHOOLS.

Article IV, section 22, of the constitution forbids enacting any local or special laws "providing for the management of the common schools."

This section as construed by the courts has reference to the management and the conduct of the common schools in imparting instruction, but does not limit school boards in adopting means to establish and maintain schools. 87 Ill., 595; 89 Ill. 297; 45 Ohio, 555.

Article V, section 1, of the constitution makes the superintendent of public instruction one of the executive officers of the state and provides for his election, term of office at four years from the second Monday of January next after his election and until his successor is elected and qualified. This section requires the superintendent to reside at the seat of government during the term of office, and keep the public records, books and papers there, and shall perform such duties as may be prescribed by law.

Article VII., section 2, of the constitution provides that all votes shall be by ballot.

Article VIII., section 1. The general assembly shall provide a thorough and efficient system of free schools, whereby all children of this state may receive a good common school education.

It is sometimes urged that the *high school* is not a part of the public school system, but the point that it is clearly a right of a school board to maintain a high schools as a part of the public schools will be seen in the opinions of the courts. 92 Ill., 612; 97 Ill., 375; 30 Mich., 69.

Sec. 2. All lands, moneys, or other property, donated, granted or received for school, college, seminary, or university purposes, and the proceeds thereof, shall be faithfully applied to the objects for which such gifts or grants were made.

This section of the constitution means that such property can not be taxed nor used for any other purpose than for the interest and benefit of the schools. 22 Ill., 236; 80 Ill., 384; 76 Ill., 184; 118 Ill., 52; 120 Ill., 509.

Sec. 3. Neither the general assembly nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation, or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money or other personal property ever be made by the state or any such public corporation to any church, or for any sectarian purpose. 125 Ill., 540.

Sec. 4. No teacher, state, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used, or to be used in any school in this state

with which such officer or teacher may be connected, under such penalties as may be provided by the general assembly. (See School Law Art. XIV., Sec. 13.)

Sec. 5. There may be a county superintendent of schools in each county whose qualifications, powers, duties, compensation and time and manner of election, and term of office, shall be prescribed by law. (Article II of the school law.)

Article IX., section 3. The property of the state, counties and other municipal corporations, both real and personal, and such other property as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, may be exempted from taxation; but such exemption shall be only by general law.

This section of the constitution makes it clear that all public school houses and all property of educational institutions, not leased or otherwise used for profit are exempt by law from taxation.

Public school property may be classed as two kinds: One class consists of funds given or donated by the federal government, and additions and accumulations thereto and held in trust by the state or those whom the state has by law made custodians or trustees. This class is exempt from taxation of any character.

The second class consists of land, school sites, houses, and is exempt from general taxation, but is not exempt from special assessments such as a city council may make for paving or building a side walk along the property. 106 Ill., 209; Cooley on Taxation, 458.

Article IX., section 12. No county, city, township, school district, or municipal corporation shall be allowed to become indebted in any manner or for any purpose, to an amount, including existing indebtedness in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness.

* * * * *

REVIEW QUESTIONS.

1. Who prescribe the text-books to be used in a school? Who prescribe the studies? How are prescribed studies discontinued from the course?

2. May a trustee legally teach a school in his township? A school treasurer?

3. When is a teacher qualified to contract with a school board? When to enter upon his duties as teacher?

4. What items must the teacher enter in the school register?

5. Name the provisions of the "compulsory law." Penalties, etc.

6. State the provisions of the law in reference to teachers' *institutes*. (Annual). Those held in term time.

7. Whose duty under the law to keep the school-room clean? What is meant by "duly qualified teacher?"

8. What is the minimum age for school teachers in this state?

9. Should the names and attendance of pupils who pay their own tuition appear on the schedule of the school?

10. By what authority may a pupil of one district be allowed to attend school in another district?

11. What is the limit of school age, as defined by law? If a pupil becomes twenty-one years of age during the school term, is he legally barred from attending longer?

12. How is "Arbor Day" fixed? Is it a school holiday? If not, how made?

13. Upon what principle does the state levy taxes for the support of schools?

14. What are the provisions of the law in regard to the payment of teachers' wages?

15. What power has a school board as to the use of tobacco at school? As to the vaccination of the pupils? In case of contagious disease?

16. Is it legal for a member of a school board to receive a permit from his district to send his child to another district?

17. What is the law concerning "night schools?" Who may attend?

18. May a teacher legally compel a left-handed pupil to use the right hand?

19. State the law about building school houses and the arrangement of the doors.

20. What power has a county superintendent, in an appeal to him from a decision of a school board, as to the residence of a pupil?

21. Who has the sole power to fix the salary of teachers?

22. How can school boards make contracts that will bind the districts?

23. Whose duty to make rules and regulations for the management and control of the school? Whose duty to enforce the rules?

24. May a teacher make and enforce rules? Is a "high school" legally a part of the "common schools?"

25. What is the law concerning the choice of studies by the pupils?

26. When a book has been used in the school for four years, may a board prescribe it for use for four more years and compel its use?

27. State fully the law concerning *physiology* and *hygiene* in the schools.

28. State substance of the law regarding "child labor." Limit of age. Penalty.

29. What is a "truant officer?" By whom chosen? Compensation and how paid?

30. State what you can about *school inspectors*. What powers, etc.?

31. Tell what you can about the law concerning "kindergarten schools." How established? Teacher's certificate for such schools.

32. Tell what you understand about the "Teachers' Pension Fund." How managed, who participates, and rate per annum.

33. What does the "flag law" require? Penalties? Size of flag required?

34. What, and how is a "truant" or "paternal school" established?

35. If two or more districts are formed from one, must each elect new boards of directors?

36. If territory is detached from one district and added to another, can the voters living in the territory so attached vote at a school election held within the next thirty days?

37. Is any person who acts as judge or clerk of a school election entitled to pay from any school fund? If so, in what cases?

38. Whose duty is it to insure the school property of a district? State the law governing the numbering of school districts.

39. On what days does the law say school elections may and should be held?

40. What must be followed in voting at a school election aside from the law?

41. If the persons whose duty it is, fail or refuse to act as judges and clerk of an election, what is the law?

42. State clearly the topics upon which the state superintendent is required to report to the governor. How frequently is he required to make such report?

43. What amount of bond given by county superintendent? By township treasurer? How many signers?

44. Is it legal for a school officer to give bond in an "Indemnity Company?" State the law on this point.

45. How many members constitute a board of education? How is the president of the board chosen, and what is the term of his office? May the board select a secretary who is not a member of the board?

46. State the law concerning *institutes* held in term time.

47. What is the law in regard to reports and schedules when the pupils belong in different districts? Different townships? Different counties.

48. In a township divided by a county line, who is custodian of the bond of the treasurer?

49. How does the treasurer report school matters to the county superintendents where the township is divided by county line? Where do the teachers in such townships get their certificates?

50. What funds and how are they distributed by the different school officers? Explain fully.

51. What funds may township treasurers loan? Terms and conditions.

52. Who may be a director? Can a director legally repair a school house or furnish wood or coal for the school and draw pay from the school fund?

53. What days are legal school holidays?

54. Can a board of directors expel a pupil? If so for what and how long? State the powers of school boards concerning the suspension of pupils.

55. Has the teacher any authority to expel pupils? To suspend them? What authority has the teacher to inflict corporal punishment?

56. What authority has the teacher over pupils going to and from school?

57. What power has a school board to allow the use of the school house for religious and other purposes?

58. Can a teacher legally make up lost time by teaching on Saturday or on a school holiday?

59. For what officers may women vote? May they legally vote on questions of building a house, issuing bonds, selecting school site?

60. What officers have the power to create a new school district? What are the dates for holding the annual elections for district and township school officers.

61. When does the school year begin? Are there different school years? If so name them.

62. What is the shortest time a school may be maintained to entitle a district to share in funds?

63. Whose duty to call elections in new districts?

64. Has any one, except the school board the legal right to call an election in a school district for the purpose of voting upon other matters than the election of school officers?

65. How are the funds with which to support schools raised? What purposes require a vote of the people to authorize school boards to levy a tax?

66. What is the highest rate school boards may levy without a vote of the people? State the purposes.

67. In the division of a district how divide the property? How arrange for existing bond debt?

68. What is the limit of indebtedness a corporation or school district may contract or vote?

69. What amount of bond must the state superintendent give? When elected, for what term and amount of salary?

70. What are the duties of the state superintendent? Name some of the powers given to him by law. When will he not advise or rather not give an opinion?

71. What power and authority has the state superintendent in granting state certificates?

72. Has the state superintendent authority to authorize others to teach than those to whom he issues certificates? What funds does he handle?

73. What are the powers and duties of the state superintendent in reference to institute instructors?

74. If the office of state superintendent becomes vacant, how filled? What qualifications must one possess to be eligible to the office of state superintendent? Are women eligible?

OPINION—It is held by some that a woman is not eligible to the office, and it is so held by some in authority, as an attorney general, but while all have due regard for such a ruling, it is nevertheless true that if a woman could secure votes enough she could hold the office. It may be true that the great political parties are not likely to nominate and elect a woman to the office. Under this condition of affairs the question will remain one for politicians to discuss and decide as they deem best for their respective parties.

75. Can a school board compel a teacher to teach other branches than those named in the school law? If so, how?

76. *What is meant by "uniformity of books?"

77. If parents fail or refuse to furnish books that their children may study *physiology*, what is the remedy?

78. Can a teacher's wages be garnasheed? Is school property subject to mechanic's lien? Is school property subject to special assessment taxes?

79. A pupil under twenty-one years of age graduates from the school, has he the right to attend the school longer? If so, for what?

80. What is the power of school boards in calling elections that the people may vote to change the location of sites?

81. If a person is elected to the office of director and he is unable to read and write in English, and the fact is known to the election board what is the power of the board in such cases?

82. Outside of a city or a village, how near to an owner's residence can a district locate a school house?

83. Is it lawful for pupils to act for the teacher in hearing classes and recitations in school?

84. How proceed to vote and organize a township "high school?"

A county normal school? How and by whom is such a school managed?

85. What are the duties of a "truant officer"? What constitutes a truant pupil?

86. Name some things for which a pupil may be suspended.

87. Who has the right to assign seats to pupils? What power have school boards in assigning pupils to schools in the districts?

88. What is the penalty if a school director refuses to sign a teacher's order or schedule? If a school election is illegal who is authorized to set it aside?

89. What officer is the custodian of the county superintendent's bond? Who approves the bond?

90. What are the powers of school boards concerning the purchase of supplies, apparatus, etc?

91. When are school boards to make return of all schedules? Of what value are schedules? When make and return tax levy?

92. Whose duty to make annual report for the township to county superintendent, and when?

93. When must the school census be taken and to whom reported? What persons should be enumerated?

94. How are vacancies in a board of education filled? If there is but one member or director in a school district, how may an election be called to fill the vacancies?

95. If there is a tie vote in an election for school director, how settled? What is the result of a tie vote on other propositions?

96. What rate of interest do teachers' orders bear? For what time?

97. What is the penalty for failing to pay the interest on borrowed school funds? To pay the principal?

98. Is it legal for a school board to rent or lease a school house outside of the district in which to maintain a school?

99. Who grants permits for pupils to attend school in another district?

100. Are school boards liable to pupils for injury sustained at school on account of defective buildings or school yards?

101. May a teacher legally deprive a pupil of the noon hour? Is it lawful for a parent (a director) to employ his son or daughter to teach? Fully.

102. When does a petition for a change of district take on a legal form or standing, or, rather, when is it in control of the law?

103. What are the purposes for which school boards may levy taxes, and the highest rate for each? Fully.

104. Can pupils rightfully be compelled to take part in general exercises in school? If so, what?

105. Give an account of the 16th section of land in its relations to schools? What is the penalty if a teacher fails to return the *school register* at the close of his term?

106. Name all grades or kinds of certificates issued to teachers in this state. If a school board pays funds to a teacher who is not a holder of a legal certificate, who is liable and to what extent?

107. Are school boards authorized to allow the use of the school house for worship, etc.? Who is liable for any damages that may occur?

108. Is it legal for a county superintendent to antedate a certificate? If not, what is the penalty?

109. Who appraises school property in the division of a district?

110. If a school district is dissolved, or abandoned by petition, what disposition of the property?

111. Is a county superintendent authorized to revoke a certificate because there is much dissatisfaction and dislike for the teacher in the district?

112. What are the powers of school boards in prescribing books for the schools?

113. State the law as to the use of the Bible in school.

114. How may an alien woman be naturalized? For what officers may women vote? To what offices are they eligible?

115. What is the duty of the township treasurer and directors as to the inspection of the district records, accounts and settlements?

116. If a school house is lost by fire or otherwise, how about the teacher's pay?

117. How are "Manual Training Schools" organized and maintained?

118. What are the rights of the pupils at the "noon hour?"

119. Is land taken in compromise, foreclosure or settlement for money belonging to and due the township, subject to general and special taxes? State reasons for answer.

120. Name some of the constitutional provisions concerning appropriations for sectarian schools.

121. If a district fails for two years to maintain a public school, as required by law, what is the duty of the trustees? If a district fails for one year, what is the penalty?

122. When should school boards make tax levy? What is the law about "yeas" and "nays" in meetings of boards of education?

123. What powers have school boards in the arrangement of programs for school-room work?

124. What is the law concerning schools for deaf pupils? How are the teachers for such schools employed? What has the county superintendent to do with such schools?

125. If a school is taught seven months by a teacher holding a certificate for six months, is the district entitled to share in the school funds if the law is followed?

126. Where must township treasurer's bonds be recorded? What is the duty of the township treasurer if he finds an order does not specify on its face the purpose for which it was issued?

127. What is the treasurer's duty when a teacher's order is presented to him, and not paid for want of funds? What is his duty when funds do come into his hands with which to pay the order?

128. What is the law authorizing school boards to issue certificates of qualification to teachers?

129. At what rate of interest may trustees loan school funds? Name the conditions on which they may make loans.

130. State the law as to the power of a school board to compel pupils to take the studies named in the school course.

131. Whose duty to insure school property? To whom should the policy be made payable? To whom should deeds for school sites be made?

132. State the power of school boards to require the vaccination of pupils?

133. Write an order for teacher's pay. One for general purposes.

134. Write a permit for a pupil to attend school in another district.

135. How may a county superintendent be removed from office? For what?

136. Name some of the leading duties of a county superintendent. Name some of the powers given to him by law.

137. When and what does he report to the county board? What are his duties and powers concerning township treasurer's bonds?

138. What school funds handled by the county superintendent, and from what source does he get them?

139. When are county superintendents elected? Term of office? Amount of bond? What qualifications must one possess to be eligible to the office? How fill vacancy?

140. What powers has a county superintendent concerning teachers' certificates? What power concerning examinations?

141. What persons may be employed as institute instructors? How long must an institute continue in session?

142. What power may a county superintendent exercise when visiting a school? What does the law say he shall do when visiting a school?

143. What powers have county superintendents as to renewing certificates? What can he do in case a certificate has expired?

144. What certificate may a county superintendent issue aside from those known as *first* and *second* grade? How long?

145. When may a county superintendent order a school election?

146. Who may, and how postpone an election for director?

147. If an officer files his resignation with the proper officer, can he legally withdraw the same?

148. How many polling places may there be in an election of a trustee? When open and close such election?

149. If there is no public road to a school, how are pupils to go to

and from the school? What is the law concerning the doors of school houses?

150. How proceed to sell a school site? Whose duty to sell? How elect trustees in school township, where the lines coincide with the lines of the political or civil township?

151. What districts may elect boards of education?

152. For what term is a school trustee elected? Is he required to take an oath of office?

153. When do trustees hold regular meetings? What officer do they appoint and how long does such officer hold the office?

154. In what year does a township treasurer's term of office commence? What are some of the duties of a treasurer? To what extent is he liable for school funds?

155. Who holds the title of all school property? Who has the control? How form a new school district?

156. How detach territory from one district and add it to another?

157. When the territory lies in two or more townships how proceed to form a new district or change the boundary lines of districts?

158. What are necessary that a person may be eligible to the office of trustee?

159. For what may a county superintendent revoke a teacher's certificate? What discretion has he about refusing to examine an applicant for a certificate?

160. Can a county superintendent legally accept the certificate from another county superintendent, and grant one to the teacher without an examination? To whom may he legally issue a certificate without an examination?

161. Are school boards permitted to issue a school bond for less than one hundred dollars?

162. How may school boards issue orders when there is no funds on hand to pay them? Write the order.

163. May a tax collector take school orders in payment of school taxes? What kind may he accept?

164. In case the school board fails to keep the house in repair, or to furnish fuel, and the teacher dismisses his school, is he entitled to his salary?

165. Can a teacher or a school board require pupils to do janitor work?

166. On what basis does the state auditor distribute the state fund? State the sources from which this fund is derived.

167. How proceed to organize a township high school?

168. If a special teacher is employed to teach music or penmanship, is he required to make a schedule?

169. Has a teacher the right to enforce a rule closing the door against tardy pupils?

170. For what may pupils be expelled? Suspended?

171. If an appeal is taken from the action of a board or boards of trustees on a petition to change the boundary lines of a district or districts, and the township or the territory is divided by a county line, whose duty to hear the appeal and render a decision?

172. May a county superintendent legally examine an applicant for a certificate in some branch not named in the school law? Has he any authority to prescribe books in which applicants must be examined?

173. What is a "union" district? How is the business of such districts conducted? Who is the treasurer?

174. Who is authorized to fix the rate of tuition for pupils attending by permission? If not so established, then how fixed?

175. Who has the right to appeal from the action of the trustees in the matter of changing district boundary lines? To whom do they appeal? When? May a woman appeal?

176. What does the law say about the state superintendent being interested in the sale of books, etc., to be used in the schools? What is the law on this point as to other school officers?

177. Is there any authority in law for more than one polling place in a school district when voting upon any proposition which the legal voters are authorized to vote?

178. If an old school site is deemed unsuitable for school purposes, what is the power of the school board in such cases?

179. What is the law concerning rights of colored children in the public schools?

180. If the people locate, by vote, a school site, and there is no public highway to it, is the school board justifiable in not carrying out the will of the voters as expressed at the election?

181. Why maintain "common schools" at public expense or by general taxation?

182. Whose duty to decide the residence of pupils? What power has a county superintendent to decide such questions?

183. If a person over school age attends school by permission of the board, to what rules of government and discipline is he subject?

184. What is the penalty for entering a school house illegally?

185. If a school house is erected on land not belonging to the district, may the directors remove the same?

186. State the rules of law governing free tuition in the state normal schools.

LAW—All the counties of the state shall be entitled to gratuitous instruction for two pupils for each county in said normal school, and each representative district shall be entitled to gratuitous instruction for a number of pupils equal to the number of representatives in said district, to be chosen in the following manner: The superintendent of schools in each county shall receive and register the names of all applicants for admission in said normal school, and shall present the same to the county court, or in counties acting under township organization, to the board of supervisors, as the case may

be, shall, together with the superintendent of schools, examine all applicants so presented, in such manner as the board of trustees may direct; and from the number of such as shall be found to possess the requisite qualifications, such pupils shall be selected by lot; and in representative districts composed of more than one county, the superintendent of schools and county judge, or the superintendent of schools and the chairman of the board of supervisors in counties acting under township organization, as the case may be, of the several counties composing such representative district, shall meet at the clerk's office of the county court of the oldest county, and from the applicants so presented to the county court or board of supervisors of the several counties represented, and found to possess the requisite qualifications, shall select by lot the pupils to which said district is entitled. The board of trustees shall have discretionary power, if any candidate does not sign and file with the secretary of the board a declaration that he or she will teach in the public schools within the state not less than three years, in case that engagements can be secured by reasonable efforts, to require the candidate to provide for the payment of such fees for tuition, as the board may prescribe.

NOTE—The act establishing the normal school [at Macomb] authorizes gratuitous instruction for one pupil for each county.

187. What is the law as regards two or more counties holding an institute jointly?

188. What is the rule of law governing admission to "high schools" if the applicant is deficient in some branch or branches in the course?

189. Tell what you can about the legality of directors supplying the school with paper, pens, pencils, ink, etc.

190. What are the teacher's rights in using force and calling help?

191. Who constitute the state board of education? How chosen? State the duties and powers.

NOTE—The law for the establishment and maintenance of the central normal, at Normal, provides that the same shall be managed by a board of fifteen members, styled "The Board of Education of the State of Illinois," appointed by the governor for six years.

The other normal schools are managed by boards of trustees, consisting of five members each, whose terms are four years.

The state superintendent is *ex-officio* member of each of the five boards.

192. May one member of a school board legally authorize another member to sign his name to a school order, tax levy certificate, schedule, etc.?

193. Is public school property subject to any class of taxes, and, if so, what?

194. State the substance of the law concerning two or more townships organizing and maintaining a "high school."

195. State difference of power of a board of directors and a board of education.

196. How organize, manage and support a county normal school?

197. What authority, if any, may a teacher exercise as to the style of dress of the pupils?

198. What power, if any, has a school board to compel a teacher to remain at the school house during the noon hour?

199. May a school treasurer or a county superintendent legally give bond in an *indemnity company*?

200. Has a signer the right to take his name from a petition for change of district boundary?

OPINION—This question, when raised, causes much discussion. The written authority on such points, though somewhat limited, sustains the right, though the signer may have been instrumental in inducing others to sign: *Provided*, he avails himself of the right to withdraw his signature before the instrument is filed with the proper officer.—Elliott's Private Corporations, 382.

201. If a school board and a church society unite in building a house, the society paying part of the cost by subscription, with the understanding that the people are to have the use of the house for religious exercises when the school is not in *actual* session, what power, if any, has the school board to close the house against the society?

OPINION—A few cases of this kind have come to notice in this as well as other states, and in most all instances have resulted in much strife and animosity among the people of the districts. Legally, school boards have no power to make such agreements, but if made, so long as no damage results to the school property or the property of the pupils by the use of the house as a place of worship, it would seem right and just for the school board to grant the use of the building to the church society; but if the property of the pupils, or the seats, and the property of the school, should be damaged by such use, the property being under the control of the school board, then the directors would have full legal power to close the house from further use by the society as a place of worship, though money had been contributed by subscription. Ark. 62 Southwestern Reporter, 61.

202. In cities of one hundred thousand population, how are the members of the board of education chosen, how many members, term of office and what qualifications to hold the office?

203. What boards of education may examine teachers and issue certificates to same? What about the examination fees in such cases?

204. State briefly what you can about a district changing from a special law to the "general school law."

205. How may trustees sell real estate which is under the control of a board of education?

206. What is the duty of the teacher, in making schedules, if his district is divided by a township or a county line?

207. What is the relation of a board of school trustees to the state?

208. To what department of the state does the office of county superintendent belong?

209. What is a teachers' institute? How are the expenses of the different kinds paid?

210. What is the penalty for boxing, boring, etc., any tree, sapling, etc., on school property?

211. What are some of the essential purposes of an institute?

212. State what the power of a school board is as to legalizing

acts of individual members, or irregular acts of the board at some subsequent meeting.

213. How are the funds for school purposes provided in cities of more than one hundred thousand population?

214. How may a fractional township, with less than two hundred persons under twenty-one years of age, consolidate its territory, etc., with an adjacent township?

215. If a fractional township or any other township has not sufficient number to maintain a public school, what is the law in such cases?

216. Classify, under the proper heads, a levy for paying bonds, interest, teacher, drainage, heating, building, sidewalk, addition to building, and repairs.

217. What boards of education have the power to establish vacation schools and play grounds?

218. Whose duty to furnish a clock or time piece for the school?

219. If the members of a school board fail to visit the schools, as directed by law, what is the penalty?

220. What is the law authorizing school boards to enlarge a school house?

221. If the people vote down the proposition to build, or to borrow money for building, what is the duty of the school board?

222. State the causes for which a county superintendent may revoke a teacher's certificate. Who has authority to remove a director? For what?

223. Give reasons why the school register should be accurately kept. State what should be entered in the register.

224. How are classes for deaf pupils provided for and maintained in the common schools? Explain the law briefly.

225. What is the rule concerning the schedule, should the teacher die?

CALENDAR OF OFFICERS' DUTIES AND ELECTIONS

First Monday in January—Auditor apportions funds.

First of March—Auditor's warrants paid by county treasurer.

First of March—Report of fines by justices to county court.

First of April—Tax collector pays township treasurer.

First Monday in April—Regular meeting of trustees.

First Tuesday in April—Trustees elected at town meeting.

First Saturday in April—Trustees elected in other cases.

Trustees organize within ten days after election.

Third Saturday in April—Election of directors and members of boards of education.

Thirtieth of June—Treasurer reports to county superintendent.

Seventh of July—Directors report to treasurer and file all schedules.

Fifteenth of July—Trustees report to county superintendent.

First Tuesday in August—Directors file tax levy with treasurer.

Second Monday in August—Treasurer files levies with county clerk.

Fifteenth of August—County superintendent makes report to the state superintendent.

September Meeting—County superintendent reports to county board.

First Monday in October—Trustees' meeting.

First of November—State superintendent makes biennial report to governor.

April and July—Treasurer makes financial reports to the districts, showing receipts and disbursements.

District Election Boards—Return poll books within ten days to treasurer.

Township Election Boards—Return poll books to treasurer, and trustees canvass vote within five days.

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